

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 187

## **SENATE BILL 1047**

AN ACT

AMENDING SECTIONS 5-395.01, 5-397, 8-234, 8-321, 8-323, 8-341, 8-343, 8-352, 8-353, 8-355, 9-499.07, 11-459, 12-299.03, 12-1809, 13-901.01, 13-914, 13-3405, 13-3406, 13-3407, 13-3408, 13-3416, 13-3826, 28-672, 28-708, 28-1174, 28-1381, 28-1382, 28-1387, 28-8284, 28-8286, 28-8289, 31-411, 41-1604.07, 41-2822, 41-2825, 41-2826 AND 46-803, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY RESTITUTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-395.01, Arizona Revised Statutes, is amended to  
3 read:

4 5-395.01. Operating or in actual physical control of a  
5 motorized watercraft while intoxicated;  
6 classification; penalties

7 A. A person who is convicted of a violation of section 5-395 is guilty  
8 of a class 1 misdemeanor. The person shall pay a fine of not less than two  
9 hundred fifty dollars. In addition to any other penalties under this  
10 section, the judge shall order the person to complete alcohol or other drug  
11 screening that is provided by a facility approved by the department of health  
12 services or a probation department. If a judge determines that the person  
13 requires further alcohol or other drug education or treatment, the person may  
14 be required pursuant to court order to obtain alcohol or other drug education  
15 or treatment under the court's supervision from an approved facility. The  
16 judge may review an education or treatment determination at the request of  
17 the state or the defendant or on the judge's initiative. The person shall  
18 pay the costs of the screening, education or treatment unless the court  
19 waives part or all of the costs.

20 B. Except as provided in section 5-398.01, the court may suspend any  
21 imposed sentence for a first violation of section 5-395 if the person  
22 completes a court ordered alcohol or other drug screening, education or  
23 treatment program. If the person fails to complete the court ordered alcohol  
24 or other drug screening, education or treatment program and has not been  
25 placed on probation, the court shall issue an order to show cause to the  
26 defendant as to why the remaining jail sentence should not be served.

27 C. A court may order a person sentenced pursuant to this section to  
28 perform community ~~service~~ RESTITUTION.

29 D. Notwithstanding subsection B of this section, if within a period of  
30 sixty months a person is convicted of a second violation of section 5-395 or  
31 is convicted of a violation of section 5-395 and has previously been  
32 convicted of an act in another state that if committed in this state would be  
33 a violation of section 5-395, the person shall be sentenced to serve not less  
34 than ninety days in jail, thirty days of which shall be served consecutively,  
35 and the person is not eligible for probation or suspension of execution of  
36 sentence unless the entire sentence has been served, except that the judge  
37 may suspend at the time of sentencing all but thirty days of the sentence if  
38 the person completes a court ordered alcohol or other drug screening,  
39 education or treatment program. If the person fails to complete the court  
40 ordered alcohol or other drug screening, education or treatment program and  
41 has not been placed on probation, the court shall issue an order to show  
42 cause as to why the remaining jail sentence should not be served. The judge  
43 shall order the person to pay a fine of not less than five hundred dollars.

44 E. The dates of the commission of the offense are the determining  
45 factor in applying the sixty month provision of subsection D of this section,

1 irrespective of the sequence in which the offenses were committed. A second  
2 violation for which a conviction occurs as provided in this section shall not  
3 include a conviction for an offense arising out of the same series of acts.

4 F. If a person is referred to a screening or treatment facility, that  
5 facility shall report to the court whether the person has successfully  
6 completed the screening, education or treatment program.

7 G. Any political subdivision processing or utilizing the services of a  
8 person ordered to perform community ~~service~~ RESTITUTION pursuant to this  
9 section does not incur any civil liability to the person ordered to perform  
10 community ~~service~~ RESTITUTION as a result of these activities unless the  
11 political subdivision or its agent or employee acts with gross negligence.

12 H. After a person who is sentenced pursuant to subsection B of this  
13 section has served twenty-four consecutive hours in jail or after a person  
14 who is sentenced pursuant to subsection D of this section has served  
15 forty-eight consecutive hours in jail and after receiving confirmation that  
16 the person is employed or is a student, the court, on pronouncement of any  
17 jail sentence under this section, may provide in the sentence that the person  
18 may be permitted, if the person is employed or is a student and can continue  
19 the person's employment or studies, to continue such employment or studies  
20 for not more than twelve hours per day nor more than five days per week, and  
21 the remaining day, days or parts of days shall be spent in jail until the  
22 sentence is served. The person shall be allowed out of jail only long enough  
23 to complete the actual hours of employment or studies and no longer.

24 I. A person WHO IS sentenced pursuant to this section is eligible for  
25 a home detention program pursuant to the provisions of section 9-499.07,  
26 subsections M through R or section 11-459, subsections L through Q.

27 J. The court shall allow the allegation of a prior conviction or other  
28 pending charge of a violation of section 5-395 filed twenty or more days  
29 before the date the case is actually tried and may allow the allegation of a  
30 prior conviction or other pending charge of a violation of section 5-395  
31 filed any time before the date the case is actually tried, provided that when  
32 the allegation is filed this state must make available to the defendant a  
33 copy of any information obtained concerning the prior conviction or other  
34 pending charge. Any conviction may be used to enhance another conviction  
35 irrespective of the dates on which the offenses occurred within the sixty  
36 month provision.

37 K. If a person is placed on probation for violating section 5-395, the  
38 probation shall be supervised unless the court finds that supervised  
39 probation is not necessary or the court does not have supervisory probation  
40 services.

41 L. Persons WHO ARE convicted pursuant to section 5-395 shall pay an  
42 additional assessment of five hundred dollars or ~~for~~, IF THE PERSON IS  
43 CONVICTED OF a second violation pursuant to subsection D of this section,  
44 shall pay an additional assessment of one thousand two hundred fifty dollars  
45 to be deposited by the state treasurer in the prison construction and

1 operations fund established by section 41-1651. These assessments are not  
2 subject to any surcharge. If the conviction occurred in the superior court  
3 or a justice court, the court shall transmit the assessed monies to the  
4 county treasurer. If the conviction occurred in a municipal court, the court  
5 shall transmit the assessed monies to the city treasurer. The city or county  
6 treasurer shall transmit the monies received to the state treasurer.

7 Sec. 2. Section 5-397, Arizona Revised Statutes, is amended to read:

8 5-397. Operating or in actual physical control of a motorized  
9 watercraft while under the extreme influence of  
10 intoxicating liquor; trial by jury; sentencing;  
11 classification; definition

12 A. It is unlawful for a person to operate or be in actual physical  
13 control of a motorized watercraft that is underway within this state if the  
14 person has an alcohol concentration of 0.15 or more within two hours of  
15 operating or being in actual physical control of the motorized watercraft and  
16 the alcohol concentration results from alcohol consumed either before or  
17 while operating or being in actual physical control of the motorized  
18 watercraft.

19 B. A person who is convicted of a violation of this section is guilty  
20 of operating or being in actual physical control of a motorized watercraft  
21 while under the extreme influence of alcohol.

22 C. At the arraignment, the court shall inform the defendant that the  
23 defendant may request a trial by jury and that the request, if made, shall be  
24 granted.

25 D. A person who is convicted of a violation of this section:

26 1. Shall be sentenced to serve not less than thirty consecutive days  
27 in jail and is not eligible for probation or suspension of execution of  
28 sentence unless the entire sentence is served.

29 2. Shall pay a fine of not less than two hundred fifty dollars.

30 3. May be ordered by a court to perform community service RESTITUTION.

31 4. Shall pay an additional assessment of one thousand dollars to be  
32 deposited by the state treasurer in the prison construction and operations  
33 fund established by section 41-1651. This assessment is not subject to any  
34 surcharge. If the conviction occurred in the superior court or a justice  
35 court, the court shall transmit the assessed monies to the county  
36 treasurer. If the conviction occurred in a municipal court, the court shall  
37 transmit the assessed monies to the city treasurer. The city or county  
38 treasurer shall transmit the monies received to the state treasurer.

39 E. Notwithstanding subsection D, paragraph 1 of this section, at the  
40 time of sentencing the judge may suspend all but ten days of the sentence if  
41 the person completes a court ordered alcohol or other drug screening,  
42 education or treatment program. If the person fails to complete the court  
43 ordered alcohol or other drug screening, education or treatment program and  
44 has not been placed on probation, the court shall issue an order to show

1 cause to the defendant as to why the remaining jail sentence should not be  
2 served.

3 F. If within a period of sixty months a person is convicted of a  
4 second violation of this section or is convicted of a violation of this  
5 section and has previously been convicted of a violation of section 5-395 or  
6 5-396 or an act in another jurisdiction that if committed in this state would  
7 be a violation of this section or section 5-395 or 5-396, the person:

8 1. Shall be sentenced to serve not less than one hundred twenty days  
9 in jail, sixty days of which shall be served consecutively, and is not  
10 eligible for probation or suspension of execution of sentence unless the  
11 entire sentence has been served.

12 2. Shall pay a fine of not less than five hundred dollars.

13 3. May be ordered by a court to perform community service RESTITUTION.

14 4. Shall pay an additional assessment of one thousand two hundred  
15 fifty dollars to be deposited by the state treasurer in the prison  
16 construction and operations fund established by section 41-1651. This  
17 assessment is not subject to any surcharge. If the conviction occurred in  
18 the superior court or a justice court, the court shall transmit the assessed  
19 monies to the county treasurer. If the conviction occurred in a municipal  
20 court, the court shall transmit the assessed monies to the city treasurer.  
21 The city or county treasurer shall transmit the monies received to the state  
22 treasurer.

23 G. Notwithstanding subsection F, paragraph 1 of this section, at the  
24 time of sentencing, the judge may suspend all but sixty days of the sentence  
25 if the person completes a court ordered alcohol or other drug screening,  
26 education or treatment program. If the person fails to complete the court  
27 ordered alcohol or other drug screening, education or treatment program and  
28 has not been placed on probation, the court shall issue an order to show  
29 cause as to why the remaining jail sentence should not be served.

30 H. In applying the sixty month provision of subsection F of this  
31 section, the dates of the commission of the offense shall be the determining  
32 factor, irrespective of the sequence in which the offenses were committed.

33 I. A second violation for which a conviction occurs as provided in  
34 this section shall not include a conviction for an offense arising out of the  
35 same series of acts.

36 J. A person who is convicted of a violation of this section is guilty  
37 of a class 1 misdemeanor.

38 K. For the purposes of this section, "alcohol concentration" means  
39 grams of alcohol per one hundred milliliters of blood or grams of alcohol per  
40 two hundred ten liters of breath.

1       Sec. 3. Section 8-234, Arizona Revised Statutes, is amended to read:

2       8-234. Treatment, community restitution, restraining and  
3       protective orders

4       A. A parent or legal guardian of a person who is under eighteen years  
5 of age shall exercise reasonable care, supervision, protection and control  
6 over the parent's or legal guardian's minor child.

7       B. On petition of a party or on the court's own motion, the court may  
8 make an order directing, restraining or otherwise controlling the conduct of  
9 a person if:

10      1. An order or disposition of a delinquent, dependent or incorrigible  
11 child has been or is about to be made in a proceeding under this chapter.

12      2. The court finds that such conduct is or may be detrimental or  
13 harmful to the child, will tend to defeat the execution of an order or  
14 disposition made or to be made or will assist in or is necessary for the  
15 rehabilitation of the child.

16      3. Notice of the petition or motion and the grounds ~~therefor~~ FOR THE  
17 PETITION OR MOTION and an opportunity to be heard ~~thereon~~ ON THE PETITION OR  
18 MOTION have been given to the person against whom the order is directed.

19      C. The court may invoke its contempt powers pursuant to section 8-247  
20 to enforce any treatment, counseling, education or other restraining or  
21 protective order that applies to:

22      1. The child, the parents or guardian of the child or any other party  
23 before the court who is the subject of an order to participate in a  
24 counseling, treatment or education program or any other restraining or  
25 protective order.

26      2. The legal custodians or agencies, including agency personnel, that  
27 are ordered to provide treatment or services to the child, the child's family  
28 or any party named in the dispositional order.

29      D. The court may order a parent or guardian to pay the cost of any  
30 counseling, treatment or education program ordered pursuant to subsection F  
31 of this section.

32      E. If the court after notice and hearing finds that a person has  
33 failed to exercise reasonable care, supervision, protection and control of a  
34 minor pursuant to subsection A of this section or if the court holds a person  
35 in contempt for violating an order issued pursuant to this section, the court  
36 may immediately take one or more of the following actions:

37      1. Impose a fine of not more than one thousand dollars, plus any  
38 applicable surcharges and assessments.

39      2. Impose a term of incarceration in jail for a period of not more  
40 than thirty days.

41      3. Order the parents or guardian of the child to perform community  
42 ~~service~~ RESTITUTION with ~~the~~ THE child.

43      F. If the court finds that the best interests of the child would be  
44 served ~~thereby~~ BY PARTICIPATION IN A DIVERSION PROGRAM, in lieu of taking any  
45 action pursuant to subsection C of this section, the court may order the

1 parent or guardian of a child to participate in a diversion program, approved  
2 by the supreme court, ~~which~~ THAT requires the parent or guardian to perform  
3 community ~~service~~ RESTITUTION or to attend and successfully complete a  
4 program of counseling, treatment or education. If the terms and conditions  
5 of the diversion order are successfully completed, the court shall dismiss  
6 its finding against the parents. If the court finds that the terms and  
7 conditions of the diversion order were not successfully completed it may take  
8 one or more of the actions specified in subsection B of this section.

9 G. Before a hearing that may result in incarceration for a person who  
10 is alleged to have violated a court order under this section, the court shall  
11 advise the person that the person has the right to be represented by counsel  
12 and that the court may appoint counsel if the court finds that the person is  
13 indigent.

14 Sec. 4. Section 8-321, Arizona Revised Statutes, is amended to read:

15 8-321. Referrals; diversions; conditions; community based  
16 alternative programs; definition

17 A. Except as provided in subsection B of this section, before a  
18 petition is filed or an admission or adjudication hearing is held, the county  
19 attorney may divert the prosecution of a juvenile who is accused of  
20 committing a delinquent act or a child who is accused of committing an  
21 incorrigible act to a community based alternative program or to a diversion  
22 program administered by the juvenile court.

23 B. A juvenile who is a chronic felony offender as defined in section  
24 13-501, who is a violent felony offender or who is alleged to have committed  
25 a violation of section 28-1381, 28-1382 or 28-1383 is not eligible for  
26 diversion.

27 C. Except as provided in section 8-323, the county attorney has sole  
28 discretion to decide whether to divert or defer prosecution of a juvenile  
29 offender. The county attorney may designate the offenses that shall be  
30 retained by the juvenile court for diversion or that shall be referred  
31 directly to a community based alternative program.

32 D. The county attorney or the juvenile court in cooperation with the  
33 county attorney may establish community based alternative programs.

34 E. Except for offenses that the county attorney designates as eligible  
35 for diversion or referral to a community based alternative program, ~~upon~~ ON  
36 receipt of a referral alleging the commission of an offense, the juvenile  
37 probation officer shall submit the referral to the county attorney to  
38 determine if a petition should be filed.

39 F. If the county attorney diverts the prosecution of a juvenile to the  
40 juvenile court, the juvenile probation officer shall conduct a personal  
41 interview with the alleged juvenile offender. At least one of the juvenile's  
42 parents or guardians shall attend the interview. The probation officer may  
43 waive the requirement for the attendance of the parent or guardian for good  
44 cause. If the juvenile acknowledges responsibility for the delinquent or

1 incorrigible act, the juvenile probation officer shall require that the  
2 juvenile comply with one or more of the following conditions:

3 1. Participation in unpaid community ~~service~~ RESTITUTION work.

4 2. Participation in a counseling program THAT IS approved by the  
5 court, ~~which~~ AND THAT is designed to strengthen family relationships and to  
6 prevent repetitive juvenile delinquency.

7 3. Participation in an education program THAT IS approved by the  
8 court, ~~which~~ AND THAT has as its goal the prevention of further delinquent  
9 behavior.

10 4. Participation in an education program THAT IS approved by the  
11 court, ~~which~~ AND THAT is designed to deal with ancillary problems experienced  
12 by the juvenile, such as alcohol or drug abuse.

13 5. Participation in a nonresidential program of rehabilitation or  
14 supervision THAT IS offered by the court or offered by a community youth  
15 serving agency and approved by the court.

16 6. Payment of restitution to the victim of the delinquent act.

17 7. Payment of a monetary assessment.

18 G. If the juvenile successfully complies with the conditions set forth  
19 by the probation officer, the county attorney shall not file a petition in  
20 juvenile court and the program's resolution shall not be used against the  
21 juvenile in any further proceeding and is not an adjudication of  
22 incorrigibility or delinquency. The resolution of the program is not a  
23 conviction of crime, does not impose any civil disabilities ordinarily  
24 resulting from a conviction and does not disqualify the juvenile in any civil  
25 service application or appointment.

26 H. In order to participate in a community based alternative program  
27 the juvenile who is referred to a program shall admit responsibility for the  
28 essential elements of the accusation and shall cooperate with the program in  
29 all of its proceedings.

30 I. All of the following apply to each community based alternative  
31 program that is established pursuant to this section:

32 1. The juvenile's participation is voluntary.

33 2. The victim's participation is voluntary.

34 3. The community based alternative program shall ensure that the  
35 victim, the juvenile's parent or guardian and any other persons who are  
36 directly affected by an offense have the right to participate.

37 4. The participants shall agree to the consequences imposed on the  
38 juvenile or the juvenile's parent or guardian.

39 5. The meetings and records shall be open to the public.

40 J. After holding a meeting the participants in the community based  
41 alternative program may agree on any legally reasonable consequences that the  
42 participants determine are necessary to fully and fairly resolve the matter  
43 except confinement.

44 K. The participants shall determine consequences within thirty days  
45 after referral to the community based alternative program, and the juvenile



1 shall complete the consequences within ninety days after the matter is  
2 referred to the community based alternative program. The county attorney or  
3 the juvenile probation officer may extend the time in which to complete the  
4 consequences for good cause. If the community based alternative program  
5 involves a school, the deadlines for determination and completion of  
6 consequences shall be thirty and ninety school days, respectively.

7 L. The community based alternative program, the juvenile, the  
8 juvenile's parent or guardian and the victim may sign a written contract in  
9 which the parties agree to the program's resolution of the matter and in  
10 which the juvenile's parent or guardian agrees to ensure that the juvenile  
11 complies with the contract. The contract may provide that the parent or  
12 guardian shall post a bond payable to this state to secure the performance of  
13 any consequence imposed on the juvenile pursuant to subsection J of this  
14 section.

15 M. If the juvenile successfully completes the consequences, the county  
16 attorney shall not file a petition in juvenile court and the program's  
17 resolution shall not be used against the juvenile in any further proceeding  
18 and is not an adjudication of incorrigibility or delinquency. The resolution  
19 of the program is not a conviction of crime, does not impose any civil  
20 disabilities ordinarily resulting from a conviction and does not disqualify  
21 the juvenile in any civil service application or appointment.

22 N. The county attorney or juvenile court shall assess the parent of a  
23 juvenile who is diverted pursuant to subsection A of this section a fee of  
24 fifty dollars unless, after determining the inability of the parent to pay  
25 the fee, the county attorney or juvenile court assesses a lesser amount. All  
26 monies assessed pursuant to this subsection shall be used for the  
27 administration and support of community based alternative programs or  
28 juvenile court diversion programs. Any amount greater than forty dollars of  
29 the fee assessed pursuant to this subsection shall only be used to supplement  
30 monies currently used for the salaries of juvenile probation and surveillance  
31 officers and for support of programs and services of the superior court  
32 juvenile probation departments. The clerk of the superior court shall pay  
33 all monies collected from this assessment to the county treasurer for deposit  
34 in the juvenile probation fund, to be utilized as provided in section 12-268,  
35 and the county attorney shall pay all monies collected from this assessment  
36 into the county attorney juvenile diversion fund established by section  
37 11-537.

38 O. The supreme court shall annually establish an average cost per  
39 juvenile for providing diversion services in each county, based ~~upon~~ ON the  
40 monies appropriated for diversion pursuant to section 8-322, excluding the  
41 cost of juvenile intake services provided by the juvenile court, and the  
42 number of juveniles diverted the previous year. ~~Upon~~ ON the county  
43 attorney's certification to the supreme court of the number of juveniles  
44 diverted to a county attorney community based alternative program each  
45 quarter, the annual average cost per juvenile for each juvenile diverted

1 shall be reimbursed to the county attorney juvenile diversion fund  
2 established by section 11-537 out of monies appropriated to the supreme court  
3 for diversion programs.

4 P. If the juvenile does not acknowledge responsibility for the  
5 offense, or fails to comply with the consequences set by the community based  
6 alternative program, the case shall be submitted to the county attorney for  
7 review.

8 Q. After reviewing a referral, if the county attorney declines  
9 prosecution, the county attorney may return the case to the juvenile  
10 probation department for further action as provided in subsection F of this  
11 section.

12 R. For the purposes of this section, "violent" means an offense  
13 involving the discharge, use or threatening exhibition of a deadly weapon or  
14 dangerous instrument or the intentional or knowing infliction of serious  
15 physical injury on another person and includes an offense listed in section  
16 13-501.

17 Sec. 5. Section 8-323, Arizona Revised Statutes, is amended to read:

18 8-323. Juvenile hearing officer; appointment; term;  
19 compensation; hearings; required attendance; contempt

20 A. The judge of the juvenile court, or in counties having more than  
21 one judge of the juvenile court, the presiding judge of the juvenile court,  
22 may appoint one or more persons of suitable experience who may be magistrates  
23 or justices of the peace to serve as juvenile hearing officers on a full-time  
24 or part-time basis. The county board of supervisors shall approve the  
25 appointment of justices of the peace as juvenile hearing officers. The local  
26 governing body shall approve the appointment of municipal judges as juvenile  
27 hearing officers. The juvenile hearing officer serves at the pleasure of the  
28 appointing judge. The appointing judge, with the approval of the board of  
29 supervisors, shall determine whether any compensation shall be paid to a  
30 juvenile hearing officer who is not otherwise employed by a public agency or  
31 holding another public office and shall establish the amounts and rates of  
32 the compensation.

33 B. Subject to the orders of the juvenile court a juvenile hearing  
34 officer may hear and determine juvenile pretrial detention hearings and may  
35 process, adjudicate and dispose of all cases that are not classified as  
36 felonies and in which a juvenile WHO IS under eighteen years of age on the  
37 date of the alleged offense is charged with violating any law relating to the  
38 following:

- 39 1. Any provision of title 28 not declared to be a felony.
- 40 2. The purchase, possession or consumption of spirituous liquor by a  
41 juvenile.
- 42 3. Boating or game and fish.
- 43 4. Curfew.
- 44 5. Truancy.

1           6. The damage or disfigurement of property by graffiti or the purchase  
2 or possession of materials with the intent to use the materials for graffiti.

3           7. The purchase or possession of tobacco.

4           8. Any city, town or political subdivision ordinance.

5           9. Interference with judicial proceedings involving disobeying or  
6 resisting the lawful order, process or other mandate of a juvenile hearing  
7 officer or failure to appear related to any offense in this section.

8           C. A hearing before the juvenile hearing officer or a hearing before a  
9 commissioner or a judge of the juvenile court in which the juvenile is  
10 charged with any offense set forth in this section may be conducted ~~upon~~ ON  
11 an exact legible copy of a written notice to appear, including a uniform  
12 Arizona traffic ticket and complaint form, that states, at a minimum, the  
13 name and address of the juvenile, the offense charged and the time and place  
14 the juvenile shall appear in court.

15           D. The juvenile hearing officer, commissioner or judge of the superior  
16 court shall not dispose of a petition or citation for any offense under this  
17 section unless the parent, guardian or custodian of the juvenile appears in  
18 court with the juvenile at the time of disposition of the charge. ~~Upon~~ ON a  
19 showing of good cause that the parent, guardian or custodian cannot appear on  
20 the date and time set by the court, the court may waive the requirement that  
21 the parent, guardian or custodian appear. The court shall state on the record  
22 the reasons for waiving the requirement that the parent, guardian or  
23 custodian appear. At the time the court issues an order to appear or other  
24 order pursuant to this section, the court shall inform the juvenile that  
25 failure to appear or failure to comply with an order will result in  
26 suspension of the juvenile's driver license or privilege to drive. If the  
27 juvenile fails to appear pursuant to a citation or an order to appear  
28 properly issued under this section or if on disposition fails to comply with  
29 any court order, the juvenile hearing officer shall order the department of  
30 transportation to suspend the juvenile's driver license or privilege to drive  
31 or shall direct the department of transportation to refuse to issue, renew or  
32 restore the juvenile's driver license or privilege to drive until the  
33 juvenile reaches eighteen years of age or appears in court as directed or  
34 complies with the court's order.

35           E. If a parent, guardian or custodian fails to appear with the  
36 juvenile, and good cause for the failure to appear is not found as provided  
37 in subsection D of this section, the court shall issue an order to show cause  
38 to the parent, guardian or custodian as to why that person shall not be held  
39 in contempt.

40           F. Except as otherwise provided by law, ~~upon~~ ON an admission by the  
41 juvenile of a violation charged pursuant to this section, or after a hearing,  
42 ~~upon~~ ON the finding that the juvenile committed the violation, the juvenile  
43 hearing officer, commissioner or judge of the superior court may do one or  
44 more of the following:

1           1. Place the juvenile on probation, except that a city magistrate or  
2 justice of the peace may only place the juvenile on unsupervised probation.

3           2. Transfer the citation to the juvenile court for all further  
4 proceedings.

5           3. Suspend the driving privileges of the juvenile, or restrict the  
6 juvenile's driving privileges for a period of not to exceed one hundred  
7 eighty days.

8           4. Order the juvenile to attend a traffic school or a counseling or  
9 education program approved by the presiding judge of the juvenile court or  
10 the supreme court.

11          5. Order the juvenile to pay the monetary assessment or penalty that  
12 is applicable to the offense. The monetary assessment or penalty shall not  
13 exceed five hundred dollars plus lawful surcharges and assessments payable to  
14 the public agency processing the violation. If no monetary assessment or  
15 penalty is specified for the offense, the juvenile hearing officer,  
16 commissioner or judge of the superior court may order the juvenile to pay not  
17 more than one hundred fifty dollars plus lawful surcharges and assessments  
18 payable to the public agency processing the violation.

19          6. In lieu of or in addition to a monetary assessment or penalty,  
20 order the juvenile to perform a program of work, ~~which~~ THAT does not conflict  
21 with the juvenile's regular schooling and employment, to repair the victim's  
22 property or to provide community ~~service~~ RESTITUTION.

23          7. If the juvenile hearing officer, commissioner or judge of the  
24 superior court determines that the person charged is eighteen or more years  
25 of age, transfer the matter to the appropriate criminal court having  
26 jurisdiction.

27          8. If the juvenile violated any truancy laws, require the juvenile and  
28 the juvenile's parents or guardians to participate in a specialized program  
29 consisting of counseling, supervision and education under the terms and  
30 conditions the juvenile hearing officer, commissioner or judge of the  
31 superior court orders.

32          9. Order the juvenile and one or both of the juvenile's custodial  
33 parents to pay restitution to any person who suffered an economic loss as the  
34 result of the juvenile's conduct. The juvenile hearing officer, commissioner  
35 or judge of the superior court shall not consider the ability of the  
36 juvenile's parents to pay restitution before making a restitution order. If  
37 the juvenile hearing officer, commissioner or judge of the superior court  
38 orders one or both of the juvenile's custodial parents to pay restitution,  
39 the amount of the order shall not exceed the liability limit established  
40 pursuant to section 12-661.

41          10. Impose sanctions authorized by section 8-343.

42          11. Reprimand the juvenile and take no further action.

43          G. A record of the proceedings before a juvenile hearing officer may  
44 be made by a court reporter, videotape or audiotape or any other method

1 approved by the supreme court that accurately reproduces what occurred at the  
2 proceeding.

3 H. Within five days after receiving the citation, the juvenile hearing  
4 officer shall notify the juvenile court that the juvenile has been charged  
5 with an offense by citation and shall indicate the listed charges. The  
6 juvenile hearing officer shall retain jurisdiction of the case until all  
7 orders made under this section have been fully complied with. Within five  
8 days after disposition, the juvenile hearing officer shall transmit a copy of  
9 the citation with the findings and disposition of the court noted on the copy  
10 to the juvenile court for record keeping purposes. If appropriate, the  
11 juvenile hearing officer shall transmit a copy of the citation to the  
12 department of transportation. If on disposition the juvenile fails to comply  
13 with any court order, the juvenile hearing officer, in the manner provided by  
14 subsection D of this section, may impose any of the sanctions prescribed in  
15 subsection F of this section.

16 I. Subject to an appeal pursuant to section 8-325 all orders of the  
17 juvenile hearing officer shall be effective immediately.

18 J. A city or town attorney or prosecutor shall act on behalf of the  
19 state in matters that are heard in a municipal court by a juvenile hearing  
20 officer pursuant to this section. In these matters and on approval of the  
21 presiding judge of the juvenile court and the county attorney, the city or  
22 town attorney or the prosecutor may establish diversion programs for offenses  
23 other than offenses involving a violation of section 28-1381, 28-1382 or  
24 28-1383.

25 Sec. 6. Section 8-341, Arizona Revised Statutes, is amended to read:

26 8-341. Disposition and commitment; definitions

27 A. After receiving and considering the evidence on the proper  
28 disposition of the case, the court may enter judgment as follows:

29 1. It may award a delinquent juvenile:

30 (a) To the care of the juvenile's parents, subject to supervision of a  
31 probation department.

32 (b) To a probation department, subject to any conditions as the court  
33 may impose, including a period of incarceration in a juvenile detention  
34 center of not more than one year.

35 (c) To a reputable citizen of good moral character, subject to the  
36 supervision of a probation department.

37 (d) To a private agency or institution, subject to the supervision of  
38 a probation officer.

39 (e) To the department of juvenile corrections.

40 (f) To maternal or paternal relatives, subject to the supervision of a  
41 probation department.

42 (g) To an appropriate official of a foreign country of which the  
43 juvenile is a foreign national who is unaccompanied by a parent or guardian  
44 in this state to remain on unsupervised probation for at least one year on  
45 the condition that the juvenile cooperate with that official.

2. It may award an incorrigible child:

(a) To the care of the child's parents, subject to the supervision of a probation department.

(b) To the protective supervision of a probation department, subject to any conditions as the court may impose.

(c) To a reputable citizen of good moral character, subject to the supervision of a probation department.

(d) To a public or private agency, subject to the supervision of a probation department.

(e) To maternal or paternal relatives, subject to the supervision of a probation department.

B. If a juvenile is placed on probation pursuant to this section, the period of probation may continue until the juvenile's eighteenth birthday, except that the term of probation shall not exceed one year if all of the following apply:

1. The juvenile is not charged with a subsequent offense.

2. The juvenile has not been found in violation of a condition of probation.

3. The court has not made a determination that it is in the best interests of the juvenile or the public to require continued supervision. The court shall state by minute entry or written order its reasons for finding that continued supervision is required.

4. The offense for which the juvenile is placed on probation does not involve the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another.

5. The offense for which the juvenile is placed on probation does not involve a violation of title 13, chapter 14 or 35.1.

6. Restitution ordered pursuant to section 8-344 has been made.

C. If a juvenile is adjudicated as a first time felony juvenile offender, the court shall provide the following written notice to the juvenile:

You have been adjudicated a first time felony juvenile offender. You are now on notice that if you are adjudicated of another offense that would be a felony offense if committed by an adult and if you commit the other offense when you are fourteen years of age or older, you will be placed on juvenile intensive probation, which may include home arrest and electronic monitoring, or you may be placed on juvenile intensive probation and may be incarcerated for a period of time in a juvenile detention center, or you may be committed to the department of juvenile corrections or you may be prosecuted as an adult. If you are convicted as an adult of a felony offense and you commit any other offense, you will be prosecuted as an adult.

1       D. If a juvenile is fourteen years of age or older and is adjudicated  
2 as a repeat felony juvenile offender, the juvenile court shall place the  
3 juvenile on juvenile intensive probation, which may include home arrest and  
4 electronic monitoring, may place the juvenile on juvenile intensive  
5 probation, which may include incarceration for a period of time in a juvenile  
6 detention center, or may commit the juvenile to the department of juvenile  
7 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this  
8 section for a significant period of time.

9       E. If the juvenile is adjudicated as a repeat felony juvenile  
10 offender, the court shall provide the following written notice to the  
11 juvenile:

12               You have been adjudicated a repeat felony juvenile  
13 offender. You are now on notice that if you are arrested for  
14 another offense that would be a felony offense if committed by  
15 an adult and if you commit the other offense when you are  
16 fifteen years of age or older, you will be tried as an adult in  
17 the criminal division of the superior court. If you commit the  
18 other offense when you are fourteen years of age or older, you  
19 may be tried as an adult in the criminal division of the  
20 superior court. If you are convicted as an adult, you will be  
21 sentenced to a term of incarceration. If you are convicted as  
22 an adult of a felony offense and you commit any other offense,  
23 you will be prosecuted as an adult.

24       F. The failure or inability of the court to provide the ~~notice~~ NOTICES  
25 required under subsections C and E of this section does not preclude the use  
26 of the prior adjudications for any purpose otherwise permitted.

27       G. After considering the nature of the offense and the age, physical  
28 and mental condition and earning capacity of the juvenile, the court shall  
29 order the juvenile to pay a reasonable monetary assessment if the court  
30 determines that an assessment is in aid of rehabilitation. If the director  
31 of the department of juvenile corrections determines that enforcement of an  
32 order for monetary assessment as a term and condition of conditional liberty  
33 is not cost-effective, the director may require the youth to perform an  
34 equivalent amount of community ~~service~~ RESTITUTION in lieu of the payment  
35 ordered as a condition of conditional liberty.

36       H. If a child is adjudicated incorrigible, the court may impose a  
37 monetary assessment on the child of not more than one hundred fifty dollars.

38       I. A juvenile who is charged with unlawful purchase, possession or  
39 consumption of spirituous liquor is subject to section 8-323. The monetary  
40 assessment for a conviction of unlawful purchase, possession or consumption  
41 of spirituous liquor by a juvenile shall not exceed five hundred  
42 dollars. The court of competent jurisdiction may order a monetary assessment  
43 or equivalent community ~~service~~ RESTITUTION.

44       J. The court shall require the monetary assessment imposed under  
45 subsection G or H of this section on a juvenile who is not committed to the

1 department of juvenile corrections to be satisfied in one or both of the  
2 following forms:

3 1. Monetary reimbursement by the juvenile in a lump sum or installment  
4 payments through the clerk of the superior court for appropriate  
5 distribution.

6 2. A program of work, not in conflict with regular schooling, to  
7 repair damage to the victim's property, to provide community service  
8 RESTITUTION or to provide the juvenile with a job for wages. The court order  
9 for restitution or monetary assessment shall specify, according to the  
10 dispositional program, the amount of reimbursement and the portion of wages  
11 of either existing or provided work that is to be credited toward  
12 satisfaction of the restitution or assessment, or the nature of the work to  
13 be performed and the number of hours to be spent working. The number of  
14 hours to be spent working shall be set by the court based on the severity of  
15 the offense but shall not be less than sixteen hours.

16 K. If a juvenile is committed to the department of juvenile  
17 corrections the court shall specify the amount of the assessment imposed  
18 pursuant to subsection G or H of this section.

19 L. After considering the length of stay guidelines developed pursuant  
20 to section 41-2816, subsection C, the court may set forth in the order of  
21 commitment the minimum period during which the juvenile shall remain in  
22 secure care while in the custody of the department of juvenile corrections.  
23 When the court awards a juvenile to the department of juvenile corrections or  
24 an institution or agency, it shall transmit with the order of commitment  
25 copies of a diagnostic psychological evaluation and educational assessment if  
26 one has been administered, copies of the case report, all other psychological  
27 and medical reports, restitution orders, any request for postadjudication  
28 notice that has been submitted by a victim and any other documents or records  
29 pertaining to the case requested by the department of juvenile corrections or  
30 an institution or agency. The department shall not release a juvenile from  
31 secure care before the juvenile completes the length of stay determined by  
32 the court in the commitment order unless the county attorney in the county  
33 from which the juvenile was committed requests the committing court to reduce  
34 the length of stay. The department may release the juvenile from secure care  
35 without a further court order after the juvenile completes the length of stay  
36 determined by the court or may retain the juvenile in secure care for any  
37 period subsequent to the completion of the length of stay in accordance with  
38 the law.

39 M. Written notice of the release of any juvenile pursuant to  
40 subsection L of this section shall be made to any victim requesting notice,  
41 the juvenile court that committed the juvenile and the county attorney of the  
42 county from which the juvenile was committed.

43 N. Notwithstanding any law to the contrary, if a person is under the  
44 supervision of the court as an adjudicated delinquent juvenile at the time  
45 the person reaches eighteen years of age, treatment services may be provided



1 until the person reaches twenty-one years of age if the court, the person and  
2 the state agree to the provision of the treatment and a motion to transfer  
3 the person pursuant to section 8-327 has not been filed or has been  
4 withdrawn. The court may terminate the provision of treatment services after  
5 the person reaches eighteen years of age if the court determines that any of  
6 the following ~~apply~~ APPLIES:

- 7 1. The person is not progressing toward treatment goals.
- 8 2. The person terminates treatment.
- 9 3. The person commits a new offense after reaching eighteen years of  
10 age.
- 11 4. Continued treatment is not required or is not in the best interests  
12 of the state or the person.

13 0. On the request of a victim of an act that may have involved  
14 significant exposure as defined in section 13-1415 or that if committed by an  
15 adult would be a sexual offense, the prosecuting attorney shall petition the  
16 adjudicating court to require that the juvenile be tested for the presence of  
17 the human immunodeficiency virus. If the victim is a minor the prosecuting  
18 attorney shall file this petition at the request of the victim's parent or  
19 guardian. If the act committed against a victim is an act that if committed  
20 by an adult would be a sexual offense or the court determines that sufficient  
21 evidence exists to indicate that significant exposure occurred, it shall  
22 order the department of juvenile corrections or the department of health  
23 services to test the juvenile pursuant to section 13-1415. Notwithstanding  
24 any law to the contrary, the department of juvenile corrections and the  
25 department of health services shall release the test results only to the  
26 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian  
27 and a minor victim's parent or guardian and shall counsel them regarding the  
28 meaning and health implications of the results.

29 P. If a juvenile has been adjudicated delinquent for an offense that  
30 if committed by an adult would be a felony, the court shall provide the  
31 department of public safety Arizona automated fingerprint identification  
32 system established in section 41-2411 with the juvenile's fingerprints,  
33 personal identification data and other pertinent information. If a juvenile  
34 has been committed to the department of juvenile corrections the department  
35 shall provide the fingerprints and information required by this subsection to  
36 the Arizona automated fingerprint identification system. If the juvenile's  
37 fingerprints and information have been previously submitted to the Arizona  
38 automated fingerprint identification system the information is not required  
39 to be resubmitted.

40 Q. Access to fingerprint records submitted pursuant to subsection P of  
41 this section shall be limited to the administration of criminal justice as  
42 defined in section 41-1750. Dissemination of fingerprint information shall  
43 be limited to the name of the juvenile, juvenile case number, date of  
44 adjudication and court of adjudication.

45 R. For the purposes of this section:

1           1. "First time felony juvenile offender" means a juvenile who is  
2 adjudicated delinquent for an offense that would be a felony offense if  
3 committed by an adult.

4           2. "Repeat felony juvenile offender" means a juvenile to whom both of  
5 the following apply:

6           (a) Is adjudicated delinquent for an offense that would be a felony  
7 offense if committed by an adult.

8           (b) Previously has been adjudicated a first time felony juvenile  
9 offender.

10          3. "Sexual offense" means oral sexual contact, sexual contact or  
11 sexual intercourse as defined in section 13-1401.

12          Sec. 7. Section 8-343, Arizona Revised Statutes, is amended to read:

13          8-343. Disposition of offenses involving driving or in actual  
14                   physical control of a motor vehicle while under the  
15                   influence of intoxicating liquor or drugs

16          A. A juvenile who is adjudicated delinquent for a violation of section  
17 28-1381 or 28-1382 shall be incarcerated for a period of twenty-four  
18 consecutive hours.

19          B. A juvenile who within a period of sixty months is adjudicated  
20 delinquent for a violation of section 28-1381 or 28-1382 and who has  
21 previously been adjudicated for a violation of section 28-1381, 28-1382 or  
22 28-1383 or an act in another state, a court of the United States or a tribal  
23 court that if committed in this state would be a violation of section  
24 28-1381, 28-1382 or 28-1383 shall be incarcerated for a period of thirty  
25 consecutive days that shall be served in a juvenile detention center or in  
26 the department of juvenile corrections.

27          C. A juvenile who is adjudicated delinquent for a violation of section  
28 28-1383 shall be sentenced as provided in section 28-1383, except that the  
29 provisions of section 13-801 do not apply and any incarceration shall be  
30 served in a juvenile detention center or in the department of juvenile  
31 corrections.

32          D. If a juvenile is adjudicated delinquent for a violation of section  
33 28-1381, 28-1382 or 28-1383, the court shall order the juvenile to pay at  
34 least one hundred dollars but not more than five hundred dollars plus any  
35 applicable surcharges and assessments to the public agency processing the  
36 violation or the court may order the juvenile to perform at least eighty  
37 hours of community service RESTITUTION under the supervision of the court.

38          E. The dates of the commission of the offense shall be the determining  
39 factor in applying the sixty month provision of subsection B of this section,  
40 irrespective of the sequence in which the offenses were committed. A second  
41 violation for which a conviction occurs as provided in this section shall not  
42 include a conviction for an offense arising out of the same series of acts.

43          F. In addition to any other penalties prescribed by law, if a juvenile  
44 is adjudicated delinquent for a violation of section 28-1381, 28-1382 or  
45 28-1383, the court shall order the juvenile to complete alcohol or other drug

1 screening that is provided by a facility approved by the department of health  
2 services or a probation department. If the court determines that the  
3 juvenile requires further alcohol or other drug education or treatment, the  
4 juvenile may be required pursuant to court order to obtain education or  
5 treatment under the court's supervision from an approved facility. The court  
6 may review an education or treatment determination at the request of the  
7 state or the defendant or on the court's initiative. The juvenile shall pay  
8 the costs of the screening, education or treatment unless the court waives  
9 part or all of the costs. The court may order the parent or guardian of the  
10 juvenile to pay part or all of the costs of the screening, education or  
11 treatment.

12 Sec. 8. Section 8-352, Arizona Revised Statutes, is amended to read:

13 8-352. Intensive probation; evaluation; criteria; limit;  
14 conditions

15 A. A juvenile probation officer shall prepare a disposition summary  
16 report for every juvenile who has been adjudicated of a delinquent act or of  
17 a technical violation of probation.

18 B. The juvenile probation officer shall evaluate the needs of the  
19 juvenile and the juvenile's risk to the community, including the nature of  
20 the offense, the delinquent history of the juvenile and the juvenile's  
21 history of referrals and adjustments. If the nature of the offense and the  
22 prior delinquent history of the juvenile indicate that the juvenile should be  
23 included in an intensive probation program pursuant to supreme court  
24 guidelines for juvenile intensive probation, the juvenile probation officer  
25 may recommend to the court that the juvenile be granted intensive probation.

26 C. After reviewing the juvenile's prior record, the facts and  
27 circumstances of the current delinquent act or technical violation of  
28 probation and the disposition summary report, the court may grant the  
29 juvenile a period of intensive probation.

30 D. When granting intensive probation the court shall set forth on the  
31 record the factual reasons for using the disposition.

32 E. Intensive probation shall be conditioned on the juvenile:

33 1. Participating in one or more of the following throughout the term  
34 of intensive probation for not less than thirty-two hours each week:

35 (a) School.

36 (b) A court ordered treatment program.

37 (c) Employment.

38 (d) Supervised community service RESTITUTION work.

39 2. Paying restitution and probation fees except that the inability to  
40 pay probation fees or restitution does not prohibit participation in the  
41 intensive probation program.

42 3. Remaining at a place of residence at all times except to attend  
43 school, work or treatment, to perform community service RESTITUTION or to  
44 participate in some activity, as specifically allowed in each instance by the

1 supervising juvenile probation officer, or if in the direct company of a  
2 parent, guardian or custodian, as approved by the juvenile probation officer.

3 4. Allowing administration of drug and alcohol tests as directed by a  
4 juvenile probation officer.

5 5. Meeting any other conditions imposed by the court, including  
6 electronic monitoring, to meet the needs of the juvenile or to limit the  
7 risks to the community.

8 F. Probation fees shall be deposited in the juvenile probation fund  
9 established pursuant to section 12-268.

10 Sec. 9. Section 8-353, Arizona Revised Statutes, is amended to read:

11 8-353. Juvenile intensive probation teams; duties; case load  
12 limit

13 A. The chief juvenile probation officer or the director of court  
14 services in each county, with approval of the presiding juvenile court judge  
15 of the superior court, shall appoint juvenile probation teams consisting of  
16 two juvenile probation officers or one juvenile probation officer and one  
17 surveillance officer or one juvenile probation officer and two surveillance  
18 officers.

19 B. A two person intensive probation team shall supervise no more than  
20 twenty-five juveniles at one time. A three person team shall supervise no  
21 more than forty juveniles at one time.

22 C. The juvenile intensive probation team shall do all of the  
23 following:

24 1. Secure and keep a complete identification record of each juvenile  
25 supervised by the team and a written statement of the conditions of the  
26 probation.

27 2. Exercise close supervision and observation over juveniles WHO ARE  
28 ordered to participate in the intensive probation PROGRAM including both of  
29 the following:

30 (a) Visual contact with each probationer at least four times per week.

31 (b) Weekly contact with the school, employer, community service  
32 RESTITUTION agency or treatment program of the probationer.

33 3. Obtain and maintain information concerning the conduct of the  
34 juvenile participating in the intensive probation program.

35 4. Request the county attorney to bring a noncompliant probationer  
36 before the court.

37 5. Monitor the payment of restitution and probation fees and request  
38 the county attorney to bring before the court any probationer who fails to  
39 pay restitution or probation fees.

40 6. Perform any other responsibilities required by the terms and  
41 conditions imposed by the court.

42 Sec. 10. Section 8-355, Arizona Revised Statutes, is amended to read:

43 8-355. School; employment; community restitution programs

44 The juvenile intensive probation team shall ensure that each juvenile  
45 under its supervision is either employed, attending school, participating in

1 a community ~~service~~ RESTITUTION program or attending a court ordered  
2 treatment program or any combination thereof as ordered by the court for not  
3 less than thirty-two hours each week.

4 Sec. 11. Section 9-499.07, Arizona Revised Statutes, is amended to  
5 read:

6 9-499.07. Prisoner work, community restitution work and home  
7 detention program; eligibility; monitoring;  
8 procedures; home detention for persons sentenced  
9 for driving under the influence of alcohol or drugs

10 A. A city or town may establish a prisoner work, community ~~service~~  
11 RESTITUTION work and home detention program for eligible sentenced prisoners,  
12 which shall be treated the same as confinement in jail. ~~Such program shall~~  
13 ~~be approved by~~ The presiding judge of the city or town municipal court prior  
14 ~~to~~ SHALL APPROVE THE PROGRAM BEFORE its implementation.

15 B. A prisoner is not eligible for a prisoner work, community ~~service~~  
16 RESTITUTION work and home detention program if any of the following is  
17 ~~applicable~~ APPLIES:

18 1. The prisoner is found by the city or town to constitute a risk to  
19 either himself or other members of the community.

20 2. The prisoner has a past history of violent behavior.

21 3. The sentencing judge states at the time of the sentence that the  
22 prisoner may not be eligible for a prisoner work, community ~~service~~  
23 RESTITUTION work and home detention program.

24 C. For prisoners WHO ARE selected for the program, the city or town  
25 may require electronic monitoring in the prisoner's home whenever the  
26 prisoner is not at the prisoner's regular place of employment or while the  
27 prisoner is assigned to a community work task. If electronic monitoring is  
28 required, the prisoner shall remain under the control of a home detention  
29 device ~~which~~ THAT constantly monitors the prisoner's location in order to  
30 determine that the prisoner has not left the prisoner's premises. In all  
31 other cases, the city or town shall implement a system of monitoring using  
32 telephone contact or other appropriate methods to assure compliance with the  
33 home detention requirements. The city or town may place appropriate  
34 restrictions on prisoners in the program, including testing prisoners for  
35 consumption of alcoholic beverages or drugs or prohibiting association with  
36 individuals WHO ARE determined to be detrimental to the prisoner's successful  
37 participation in the program.

38 D. If a prisoner is ~~required to be~~ placed on electronic monitoring  
39 pursuant to subsection C of this section, the prisoner shall pay an  
40 electronic monitoring fee in an amount ranging from zero to full cost and  
41 thirty dollars per month while on electronic monitoring, unless, after  
42 determining the inability of the prisoner to pay these fees, the city or town  
43 assesses a lesser fee. The fees collected shall be used by the city or town  
44 to offset operational costs of the program.

1 E. Prisoners WHO ARE selected for the home detention program shall be  
2 employed within the county in which the city or town is located. The city or  
3 town shall review the place of employment to determine whether it is  
4 appropriate for a home detention prisoner. If the prisoner is terminated  
5 from employment or does not come to work, the employer shall notify the city  
6 or town. Alternatively, or in addition, a community ~~service~~ RESTITUTION work  
7 assignment may be made by the city or town to a program recommended by the  
8 community ~~service~~ RESTITUTION work committee. If a prisoner is incapable of  
9 performing community ~~service~~ RESTITUTION or being employed, the city or town  
10 may exempt the prisoner from these programs.

11 F. The city or town may require that a prisoner who is employed during  
12 the week also participate in community ~~service~~ RESTITUTION work programs on  
13 weekends.

14 G. The city or town may allow prisoners to be away from home detention  
15 for special purposes, including church attendance, medical appointments or  
16 funerals.

17 H. Community ~~service~~ RESTITUTION work shall include public works  
18 projects operated and supervised by the city or town or other public agencies  
19 of this state or projects sponsored and supervised by public or private  
20 community oriented organizations and agencies.

21 I. A city or town implementing a program under this section shall  
22 appoint a community ~~service~~ RESTITUTION work committee. The committee shall  
23 recommend to the city or town appropriate community ~~service~~ RESTITUTION work  
24 projects for home detention prisoners. Members are not eligible to receive  
25 compensation.

26 J. At any time the city or town may terminate a prisoner's  
27 participation in the prisoner work, community ~~service~~ RESTITUTION work and  
28 home detention program and require that the prisoner complete the remaining  
29 term of the prisoner's sentence in jail confinement.

30 K. Nothing in this section shall prohibit a city or town from entering  
31 into a joint exercise of powers agreement pursuant to section 11-952 for a  
32 prisoner work, community ~~service~~ RESTITUTION work and home detention program.

33 L. If authorized by the court, a person WHO IS sentenced pursuant to  
34 section 28-1381 or 28-1382 shall not be placed under home detention in a  
35 prisoner work, community ~~service~~ RESTITUTION work and home detention program  
36 except as provided in subsections M through R of this section.

37 M. By a majority vote of the full membership of the governing body of  
38 the municipality after a public hearing and a finding of necessity, a city or  
39 town may establish a home detention program for persons WHO ARE sentenced to  
40 jail confinement pursuant to section 28-1381 or 28-1382. A prisoner WHO IS  
41 placed under the program established pursuant to this subsection shall bear  
42 the cost of all testing, monitoring and enrollment in alcohol or substance  
43 abuse programs unless, after determining the inability of the prisoner to pay  
44 the cost, the court assesses a lesser amount. The city or town shall use the  
45 collected monies to offset operational costs of the program.

1           N. If the city or town establishes a home detention program under  
2 subsection M of this section, a prisoner must meet the following eligibility  
3 requirements for the program:

4           1. The provisions of subsection B of this section apply in determining  
5 eligibility for the program.

6           2. If the prisoner is sentenced under section 28-1381, subsection I,  
7 the prisoner first serves a minimum of twenty-four consecutive hours in jail.

8           3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
9 sentenced under section 28-1381, subsection K or section 28-1382, subsection  
10 D or F, the prisoner first serves a minimum of fifteen consecutive days in  
11 jail before being placed under home detention.

12           4. The prisoner is required to comply with all of the following  
13 provisions for the duration of the prisoner's participation in the home  
14 detention program:

15           (a) All of the provisions of subsections C through H of this section.

16           (b) Testing at least once a day for the use of alcoholic beverages or  
17 drugs by a scientific method that is not limited to urinalysis or a breath or  
18 intoxication test in the prisoner's home or at the office of a person  
19 designated by the court to conduct these tests.

20           (c) Participation in an alcohol or drug program, or both. These  
21 programs shall be accredited by the department of health services or a county  
22 probation department.

23           (d) Prohibition of association with any individual determined to be  
24 detrimental to the prisoner's successful participation in the program.

25           (e) All other provisions of the sentence imposed.

26           5. Any additional eligibility criteria that the city or town may  
27 impose.

28           O. If a city or town establishes a home detention program under  
29 subsection M of this section, the court, on placing the prisoner in the  
30 program, shall require electronic monitoring in the prisoner's home and, if  
31 consecutive hours of jail time are ordered, shall require the prisoner to  
32 remain at home during the consecutive hours ordered. The detention device  
33 shall constantly monitor the prisoner's location to ensure that the prisoner  
34 does not leave the premises. Nothing in this subsection shall be deemed to  
35 waive the minimum jail confinement requirements under subsection N, paragraph  
36 2 of this section.

37           P. The court shall terminate a prisoner's participation in the home  
38 detention program and require the prisoner to complete the remaining term of  
39 the jail sentence by jail confinement if:

40           1. The prisoner fails to successfully complete a court ordered alcohol  
41 or drug screening, counseling, education and treatment program pursuant to  
42 subsection N, paragraph 4, subdivision (c) of this section, section 28-1381,  
43 subsection J or L or section 28-1382, subsection E or G.

1           2. The court finds that the prisoner left the premises without  
2 permission of the court or supervising authority during a time the prisoner  
3 is ordered to be on the premises.

4           Q. At any other time the court may terminate a prisoner's  
5 participation in the home detention program and require the prisoner to  
6 complete the remaining term of the jail sentence by jail confinement.

7           R. The governing body of the city or town may terminate the program  
8 established under subsection M of this section by a majority vote of the full  
9 membership of the governing body.

10          Sec. 12. Section 11-459, Arizona Revised Statutes, is amended to read:

11          11-459. Prisoner work, community restitution work and home  
12               detention program; eligibility; monitoring;  
13               procedures; home detention for persons sentenced for  
14               driving under the influence of alcohol or drugs;  
15               community restitution work committee; members; duties

16          A. The sheriff may establish a prisoner work, community service  
17 RESTITUTION work and home detention program for eligible sentenced prisoners,  
18 which shall be treated the same as confinement in jail and shall fulfill the  
19 sheriff's duty to take charge of and keep the county jail and prisoners.

20          B. A prisoner is not eligible for a prisoner work, community service  
21 RESTITUTION work and home detention program if any of the following ~~is~~  
22 applicable APPLIES:

23           1. After independent review and determination of the jail's  
24 classification program, the prisoner is found by the sheriff to constitute a  
25 risk to either himself or other members of the community.

26           2. The prisoner has a past history of violent behavior.

27           3. The prisoner has been convicted of a serious offense as defined by  
28 section 13-604 or has been determined to be a dangerous and repetitive  
29 offender.

30           4. Jail time is being served as a result of a felony conviction.

31           5. The sentencing judge states at the time of the sentence that the  
32 prisoner may not be eligible for a prisoner work, community service  
33 RESTITUTION work and home detention program.

34           6. The prisoner is sentenced to a county jail and is being held for  
35 another jurisdiction.

36          C. For prisoners WHO ARE selected for the program, the sheriff may  
37 require electronic monitoring in the prisoner's home whenever the prisoner is  
38 not at his regular place of employment or while the prisoner is assigned to a  
39 community work task. If electronic monitoring is required, the prisoner  
40 shall remain under the control of a home detention device ~~which~~ THAT  
41 constantly monitors the prisoner's location in order to determine that the  
42 prisoner has not left his premises. In all other cases, the sheriff shall  
43 implement a system of monitoring using visitation, telephone contact or other  
44 appropriate methods to assure compliance with the home detention  
45 requirements. The sheriff may place appropriate restrictions on prisoners in



1 the program, including testing prisoners for consumption of alcoholic  
2 beverages or drugs or prohibiting association with individuals WHO ARE  
3 determined to be detrimental to the prisoner's successful participation in  
4 the program.

5 D. If a prisoner is ~~required to be~~ placed on electronic monitoring  
6 pursuant to subsection C of this section, the prisoner shall pay an  
7 electronic monitoring fee in an amount ranging from zero to full cost and  
8 thirty dollars per month while on electronic monitoring, unless, after  
9 determining the inability of the prisoner to pay these fees, the sheriff  
10 assesses a lesser fee. The fees collected shall be used by the sheriff to  
11 offset operational costs of the program.

12 E. Prisoners WHO ARE selected for the home detention program shall be  
13 employed in the county in which they are incarcerated. The sheriff shall  
14 review the place of employment to determine whether it is appropriate for a  
15 home detention prisoner. If the prisoner is terminated from employment or  
16 does not come to work, the employer shall notify the sheriff's  
17 office. Alternatively, or in addition, a community ~~service~~ RESTITUTION work  
18 assignment may be made by the sheriff to a program recommended to the sheriff  
19 by the community ~~service~~ RESTITUTION work committee. If a prisoner is  
20 incapable of performing community ~~service~~ RESTITUTION or being employed, the  
21 sheriff may exempt the prisoner from these programs.

22 F. The sheriff may require that a prisoner who is employed during the  
23 week also participate in community ~~service~~ RESTITUTION work programs on  
24 weekends.

25 G. The sheriff may allow prisoners to be away from home detention for  
26 special purposes, including church attendance, medical appointments or  
27 funerals. The standard for review and determination of such leave is the  
28 same as that implemented to decide transportation requests for similar  
29 purposes made by prisoners confined in the county jail.

30 H. Community ~~service~~ RESTITUTION work shall include public works  
31 projects operated and supervised by public agencies of this state or  
32 counties, cities or towns on recommendation of the community ~~service~~  
33 RESTITUTION work committee and approval of the sheriff. The community  
34 ~~service~~ RESTITUTION work committee may also recommend and the sheriff may  
35 approve other forms of community ~~service~~ RESTITUTION work sponsored and  
36 supervised by public or private community oriented organizations and  
37 agencies.

38 I. The community ~~service~~ RESTITUTION work committee is established in  
39 each county and is composed of two designees of the sheriff, a representative  
40 of the county attorney's office selected by the county attorney, a  
41 representative of a local police agency selected by the police chief of the  
42 largest city in the county and three persons selected by the county board of  
43 supervisors from the private sector. A sheriff's designee shall serve as  
44 committee chairman and schedule all meetings. The committee shall meet as  
45 often as necessary, but no less than once every three months, for the purpose

1 of considering and recommending appropriate community service RESTITUTION  
2 work project for home detention prisoners. The committee shall make its  
3 recommendations to the sheriff. Members are not eligible to receive  
4 compensation.

5 J. At any time the sheriff may terminate a prisoner's participation in  
6 the prisoner work, community service RESTITUTION work and home detention  
7 program and require that the prisoner complete the remaining term of the  
8 prisoner's sentence in jail confinement.

9 K. If authorized by the court, a person WHO IS sentenced pursuant to  
10 section 28-1381 or 28-1382 shall not be placed under home detention in a  
11 prisoner work, community service RESTITUTION work and home detention program  
12 except as provided in subsections L through Q of this section.

13 L. By a majority vote of the full membership of the board of  
14 supervisors after a public hearing and a finding of necessity a county may  
15 authorize the sheriff to establish a home detention program for persons WHO  
16 ARE sentenced to jail confinement pursuant to section 28-1381 or 28-1382. If  
17 the board authorized the establishment of a home detention program, a county  
18 sheriff may establish the program. A prisoner WHO IS placed under the  
19 program established pursuant to this subsection shall bear the cost of all  
20 testing, monitoring and enrollment in alcohol or substance abuse programs  
21 unless, after determining the inability of the prisoner to pay the cost, the  
22 court assesses a lesser amount. The county shall use the collected monies to  
23 offset operational costs of the program.

24 M. If a county sheriff establishes a home detention program under  
25 subsection L of this section, a prisoner must meet the following eligibility  
26 requirements for the program:

27 1. The provisions of subsection B of this section apply in determining  
28 eligibility for the program.

29 2. If the prisoner is sentenced under section 28-1381, subsection I,  
30 the prisoner first serves a minimum of twenty-four consecutive hours in jail.

31 3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
32 sentenced under section 28-1381, subsection K or section 28-1382, subsection  
33 D or F, the prisoner first serves a minimum of fifteen consecutive days in  
34 jail before being placed under home detention.

35 4. The prisoner is required to comply with all of the following  
36 requirements for the duration of the prisoner's participation in the home  
37 detention program:

38 (a) All of the provisions of subsections C through H of this section.

39 (b) Testing at least once a day for the use of alcoholic beverages or  
40 drugs by a scientific method that is not limited to urinalysis or a breath or  
41 intoxication test in the prisoner's home or at the office of a person  
42 designated by the court to conduct these tests.

43 (c) Participation in an alcohol or drug program, or both. These  
44 programs shall be accredited by the department of health services or a county  
45 probation department.

1 (d) Prohibition of association with any individual determined to be  
2 detrimental to the prisoner's successful participation in the program.

3 (e) All other provisions of the sentence imposed.

4 5. Any additional eligibility criteria that the county may impose.

5 N. If a county sheriff establishes a home detention program under  
6 subsection L of this section, the court, on placing the prisoner in the  
7 program, shall require electronic monitoring in the prisoner's home and, if  
8 consecutive hours of jail time are ordered, shall require the prisoner to  
9 remain at home during the consecutive hours ordered. The detention device  
10 shall constantly monitor the prisoner's location to ensure that the prisoner  
11 does not leave the premises. Nothing in this subsection shall be deemed to  
12 waive the minimum jail confinement requirements under subsection M, paragraph  
13 2 of this section.

14 O. The court shall terminate a prisoner's participation in the home  
15 detention program and shall require the prisoner to complete the remaining  
16 term of the jail sentence by jail confinement if either:

17 1. The prisoner fails to successfully complete a court ordered alcohol  
18 or drug screening, counseling, education and treatment program pursuant to  
19 subsection M, paragraph 4, subdivision (c) of this section, section 28-1381,  
20 subsection J or L or section 28-1382, subsection E or G.

21 2. The prisoner leaves the premises during a time that the prisoner is  
22 ordered to be on the premises without permission of the court or supervising  
23 authority.

24 P. At any other time the court may terminate a prisoner's  
25 participation in the home detention program and require the prisoner to  
26 complete the remaining term of the jail sentence by jail confinement.

27 Q. The sheriff may terminate the program at any time.

28 R. A person WHO IS sentenced pursuant to section 28-1383 shall not be  
29 placed under home detention in a prisoner work, community ~~service~~ RESTITUTION  
30 work and home detention program.

31 Sec. 13. Section 12-299.03, Arizona Revised Statutes, is amended to  
32 read:

33 12-299.03. Duties of the supreme court; evaluation

34 A. The supreme court shall:

35 1. Implement and administer the community punishment program.

36 2. Adopt necessary guidelines, rules, standards and policies to  
37 implement this article.

38 3. Facilitate the development of local plans.

39 4. Develop and implement an application process and procedures.

40 5. Review and approve plans and budgets.

41 6. Allocate funding.

42 7. Provide statewide training and technical assistance to the superior  
43 court, adult probation departments and advisory committees regarding  
44 community punishment.

1        8. Conduct an evaluation of all programs on a periodic basis to ensure  
2 program accountability. The evaluation report shall include information for  
3 the superior court in each participating county on the number of offenders  
4 serving suspended sentences on probation and intensive probation, the average  
5 cost per offender, the amount of restitution, fines and fees paid, the number  
6 of community service RESTITUTION hours contributed by offenders and the  
7 number of offenders who have successfully completed terms of probation. The  
8 report shall be submitted to the governor, the speaker of the house of  
9 representatives and the president of the senate. The supreme court may  
10 contract with a private consultant to prepare this evaluation report.

11        B. The supreme court may contract directly with private human service  
12 agencies to develop, implement and operate community punishment programs.

13        Sec. 14. Section 12-1809, Arizona Revised Statutes, is amended to  
14 read:

15        12-1809. Injunction against harassment; petition; venue; fees;  
16                    notices; enforcement; definition

17        A. A person may file a verified petition with a magistrate, justice of  
18 the peace or superior court judge for an injunction prohibiting harassment.  
19 If the person is a minor, the parent, legal guardian or person who has legal  
20 custody of the minor shall file the petition unless the court determines  
21 otherwise. The petition shall name the parent, guardian or custodian as the  
22 plaintiff, and the minor is a specifically designated person for the purposes  
23 of subsection F of this section. If a person is either temporarily or  
24 permanently unable to request an injunction, a third party may request an  
25 injunction on behalf of the plaintiff. After the request, the judicial  
26 officer shall determine if the third party is an appropriate requesting party  
27 for the plaintiff. Notwithstanding the location of the plaintiff or  
28 defendant, any court in this state may issue or enforce an injunction against  
29 harassment.

30        B. An injunction against harassment shall not be granted:

31        1. Unless the party who requests the injunction files a written  
32 verified petition for injunction.

33        2. Against a person who is less than twelve years of age unless the  
34 injunction is granted by the juvenile division of the superior court.

35        3. Against more than one defendant.

36        C. The petition shall state all of the following:

37        1. The name of the plaintiff. The plaintiff's address shall be  
38 disclosed to the court for purposes of service. If the address of the  
39 plaintiff is unknown to the defendant, the plaintiff may request that the  
40 address be protected. On the plaintiff's request, the address shall not be  
41 listed on the petition. Whether the court issues an injunction against  
42 harassment, the protected address shall be maintained in a separate document  
43 or automated database and is not subject to release or disclosure by the  
44 court or any form of public access except as ordered by the court.

45        2. The name and address, if known, of the defendant.

1           3. A specific statement showing events and dates of the acts  
2 constituting the alleged harassment.

3           4. The name of the court in which there was or is any prior or pending  
4 proceeding or order concerning the conduct that is sought to be restrained.

5           5. The relief requested.

6           D. A fee shall not be charged for filing a petition under this  
7 section. Fees for service of process may be deferred or waived under any  
8 rule or law applicable to civil actions, except that fees for service of  
9 process shall not be charged if the petition arises out of a dating  
10 relationship. The court shall advise a plaintiff that the plaintiff may be  
11 eligible for the deferral or waiver of these fees at the time the plaintiff  
12 files a petition. The court shall not require the petitioner to perform  
13 community service RESTITUTION as a condition of the waiver or deferral of  
14 fees for service of process. A law enforcement agency or constable shall not  
15 require the advance payment of fees for service of process of injunctions  
16 against harassment. If the court does not waive the fees, the serving agency  
17 may assess the actual fees against the plaintiff. On request of the  
18 plaintiff, an injunction against harassment that is issued by a municipal  
19 court may be served by the police agency for that city if the defendant can  
20 be served within the city. If the defendant cannot be served within the  
21 city, the police agency in the city in which the defendant can be served may  
22 serve the injunction. On request of the plaintiff, each injunction against  
23 harassment that is issued by a justice of the peace shall be served by the  
24 constable for that jurisdiction if the defendant can be served within the  
25 jurisdiction. If the defendant cannot be served within that jurisdiction,  
26 the constable in the jurisdiction in which the defendant can be served shall  
27 serve the injunction. On request of the plaintiff, an injunction against  
28 harassment that is issued by a superior court judge or commissioner may be  
29 served by the sheriff of the county. If the defendant cannot be served  
30 within that jurisdiction, the sheriff in the jurisdiction in which the  
31 defendant can be served may serve the order. The court shall provide,  
32 without charge, forms for purposes of this section for assisting parties  
33 without counsel.

34           E. The court shall review the petition, any other pleadings on file  
35 and any evidence offered by the plaintiff to determine whether the injunction  
36 requested should issue without a further hearing. Rules 65(a)(1) and 65(e)  
37 of the Arizona rules of civil procedure do not apply to injunctions that are  
38 requested pursuant to this section. If the court finds reasonable evidence  
39 of harassment of the plaintiff by the defendant during the year preceding the  
40 filing of the petition or that good cause exists to believe that great or  
41 irreparable harm would result to the plaintiff if the injunction is not  
42 granted before the defendant or the defendant's attorney can be heard in  
43 opposition and the court finds specific facts attesting to the plaintiff's  
44 efforts to give notice to the defendant or reasons supporting the plaintiff's  
45 claim that notice should not be given, the court shall issue an injunction as

1 provided for in subsection F of this section. If the court denies the  
2 requested relief, it may schedule a further hearing within ten days with  
3 reasonable notice to the defendant. For purposes of determining the one year  
4 period, any time that the defendant has been incarcerated or out of this  
5 state shall not be counted.

6 F. If the court issues an injunction, the court may do any of the  
7 following:

8 1. Enjoin the defendant from committing a violation of one or more  
9 acts of harassment.

10 2. Restrain the defendant from contacting the plaintiff or other  
11 specifically designated persons and from coming near the residence, place of  
12 employment or school of the plaintiff or other specifically designated  
13 locations or persons.

14 3. Grant relief necessary for the protection of the alleged victim and  
15 other specifically designated persons proper under the circumstances.

16 G. The court shall not grant a mutual injunction against harassment.  
17 If opposing parties separately file verified petitions for an injunction  
18 against harassment, the courts after consultation between the judicial  
19 officers involved may consolidate the petitions of the opposing parties for  
20 hearing. This does not prohibit a court from issuing cross injunctions  
21 against harassment.

22 H. At any time during the period during which the injunction is in  
23 effect, the defendant is entitled to one hearing on written request. No fee  
24 may be charged for requesting a hearing. A hearing that is requested by a  
25 defendant shall be held within ten days from the date requested unless the  
26 court finds compelling reasons to continue the hearing. The hearing shall be  
27 held at the earliest possible time. An ex parte injunction that is issued  
28 under this section shall state on its face that the defendant is entitled to  
29 a hearing on written request and shall include the name and address of the  
30 judicial office where the request may be filed. After the hearing, the court  
31 may modify, quash or continue the injunction.

32 I. The injunction shall include the following statement:

33 Warning

34 This is an official court order. If you disobey this  
35 order, you may be arrested and prosecuted for the crime of  
36 interfering with judicial proceedings and any other crime you  
37 may have committed in disobeying this order.

38 J. A copy of the petition and the injunction shall be served on the  
39 defendant within one year from the date the injunction is signed. An  
40 injunction that is not served on the defendant within one year expires. The  
41 injunction is effective on the defendant on service of a copy of the  
42 injunction and petition and expires one year after service on the defendant.  
43 A modified injunction is effective upon service and expires one year after  
44 service of the initial injunction and petition.

K. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the injunction or any modified injunction was issued shall forward to the sheriff of the county in which the court is located a copy of the injunction and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the injunction. Registration of an injunction means that a copy of the injunction and a copy of the affidavit or certificate of service of process or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for injunctions so that the existence and validity of the injunctions can be easily verified. The effectiveness of an injunction does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an injunction, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the injunction on the defendant.

L. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an injunction that is issued pursuant to this section, whether or not the violation occurred in the presence of the officer. The provisions for release under section 13-3903 do not apply to an arrest made pursuant to this subsection. A person who is arrested pursuant to this subsection may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.

M. If a peace officer responds to a call alleging that harassment has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An injunction pursuant to this section.
2. The emergency telephone number for the local police agency.
3. Telephone numbers for emergency services in the local community.

N. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies

1 available. The municipal court and the justice court may hear and decide all  
2 matters arising pursuant to this section. After a hearing with notice to the  
3 affected party, the court may enter an order requiring any party to pay the  
4 costs of the action, including reasonable attorney fees, if any. An order  
5 that is entered by a justice court or municipal court after a hearing  
6 pursuant to this section may be appealed to the superior court as provided in  
7 title 22, chapter 2, article 4, section 22-425, subsection B and the superior  
8 court rules of civil appellate procedure without regard to an amount in  
9 controversy. No fee may be charged to either party for filing an appeal.

10 O. A peace officer who makes an arrest pursuant to this section is not  
11 civilly or criminally liable for the arrest if the officer acts on probable  
12 cause and without malice. A peace officer is not civilly liable for  
13 noncompliance with subsection M of this section.

14 P. This section does not apply to preliminary injunctions issued  
15 pursuant to an action for dissolution of marriage or legal separation or for  
16 protective orders against domestic violence.

17 Q. In addition to the persons who are authorized to serve process  
18 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or a  
19 correctional officer as defined in section 41-1661 who is acting in the  
20 officer's official capacity may serve an injunction against harassment that  
21 is issued pursuant to this section.

22 R. In this section, "harassment" means a series of acts over any  
23 period of time that is directed at a specific person and that would cause a  
24 reasonable person to be seriously alarmed, annoyed or harassed and the  
25 conduct in fact seriously alarms, annoys or harasses the person and serves no  
26 legitimate purpose.

27 Sec. 15. Section 13-901.01, Arizona Revised Statutes, is amended to  
28 read:

29 13-901.01. Probation for persons convicted of possession or use  
30 of controlled substances or drug paraphernalia;  
31 treatment; prevention; education; definition

32 A. Notwithstanding any law to the contrary, any person who is  
33 convicted of the personal possession or use of a controlled substance or drug  
34 paraphernalia is eligible for probation. The court shall suspend the  
35 imposition or execution of sentence and place the person on probation.

36 B. Any person who has been convicted of or indicted for a violent  
37 crime as defined in section 13-604.04 is not eligible for probation as  
38 provided for in this section but instead shall be sentenced pursuant to  
39 chapter 34 of this title.

40 C. Personal possession or use of a controlled substance pursuant to  
41 this section shall not include possession for sale, production, manufacturing  
42 or transportation for sale of any controlled substance.

43 D. If a person is convicted of personal possession or use of a  
44 controlled substance or drug paraphernalia, as a condition of probation, the  
45 court shall require participation in an appropriate drug treatment or



1 education program administered by a qualified agency or organization that  
2 provides such programs to persons who abuse controlled substances. Each  
3 person who is enrolled in a drug treatment or education program shall be  
4 required to pay for participation in the program to the extent of the  
5 person's financial ability.

6 E. A person who has been placed on probation pursuant to this section  
7 and who is determined by the court to be in violation of probation shall have  
8 new conditions of probation established by the court. The court shall select  
9 the additional conditions it deems necessary, including intensified drug  
10 treatment, community ~~service~~ RESTITUTION, intensive probation, home arrest or  
11 any other sanctions except that the court shall not impose a term of  
12 incarceration unless the court determines that the person violated probation  
13 by committing an offense listed in chapter 34 or 34.1 of this title or an act  
14 in violation of an order of the court relating to drug treatment.

15 F. If a person is convicted a second time of personal possession or  
16 use of a controlled substance or drug paraphernalia, the court may include  
17 additional conditions of probation it deems necessary, including intensified  
18 drug treatment, community ~~service~~ RESTITUTION, intensive probation, home  
19 arrest or any other action within the jurisdiction of the court.

20 G. At any time while the defendant is on probation, if after having a  
21 reasonable opportunity to do so the defendant fails or refuses to participate  
22 in drug treatment, the probation department or the prosecutor may petition  
23 the court to revoke the defendant's probation. If the court finds that the  
24 defendant refused to participate in drug treatment, the defendant shall no  
25 longer be eligible for probation under this section but instead shall be  
26 sentenced pursuant to chapter 34 of this title.

27 H. A person is not eligible for probation under this section but  
28 instead shall be sentenced pursuant to chapter 34 of this title if the court  
29 finds the person either:

30 1. Had been convicted three times of personal possession of a  
31 controlled substance or drug paraphernalia.

32 2. Refused drug treatment as a term of probation.

33 3. Rejected probation.

34 I. Subsections G and H of this section do not prohibit the defendant  
35 from being placed on probation pursuant to section 13-901 if the defendant  
36 otherwise qualifies for probation under that section.

37 J. For the purposes of this section, "controlled substance" has the  
38 same meaning prescribed in section 36-2501.

39 Sec. 16. Section 13-914, Arizona Revised Statutes, is amended to read:

40 13-914. Intensive probation; evaluation; sentence; criteria;  
41 limit; conditions

42 A. An adult probation officer shall prepare a presentence report for  
43 every offender who has either:

44 1. Been convicted of a felony and for whom the granting of probation  
45 is not prohibited by law.

1           2. Violated probation by commission of a technical violation that was  
2 not chargeable or indictable as a criminal offense.

3           B. The adult probation officer shall evaluate the needs of the  
4 offender and the offender's risk to the community, including the nature of  
5 the offense and criminal history of the offender. If the nature of the  
6 offense and the prior criminal history of the offender indicate that the  
7 offender should be included in an intensive probation program pursuant to  
8 supreme court guidelines for intensive probation, the adult probation officer  
9 may recommend to the court that the offender be granted intensive probation.

10          C. The court may suspend the imposition or execution of the sentence  
11 and grant the offender a period of intensive probation in accordance with  
12 this chapter. Except for sentences that are imposed pursuant to section  
13 13-3601, the sentence is tentative to the extent that it may be altered or  
14 revoked pursuant to this chapter, but for all other purposes it is a final  
15 judgment of conviction. This subsection does not preclude the court from  
16 imposing a term of intensive probation pursuant to section 13-3601.

17          D. When granting intensive probation the court shall set forth on the  
18 record the factual and legal reasons in support of the sentence.

19          E. Intensive probation shall be conditioned on the offender:

20           1. Maintaining employment or maintaining full-time student status at a  
21 school subject to ~~the provisions of~~ title 15 or title 32, chapter 30 and  
22 making progress deemed satisfactory to the probation officer, or both, or  
23 being involved in supervised job searches and community ~~service~~ RESTITUTION  
24 work at least six days a week throughout the offender's term of intensive  
25 probation.

26           2. Paying restitution and probation fees of not less than fifty  
27 dollars unless, after determining the inability of the offender to pay the  
28 fee, the court assesses a lesser fee. Probation fees shall be deposited in  
29 the adult probation services fund established by section 12-267. Any amount  
30 greater than forty dollars of the fee assessed pursuant to this subsection  
31 shall only be used to supplement monies currently used for the salaries of  
32 adult probation and surveillance officers and for support of programs and  
33 services of the superior court adult probation departments.

34           3. Establishing a residence at a place approved by the intensive  
35 probation team and not changing the offender's residence without the team's  
36 prior approval.

37           4. Remaining at the offender's place of residence at all times except  
38 to go to work, to attend school, to perform community ~~service~~ RESTITUTION and  
39 as specifically allowed in each instance by the adult probation officer.

40           5. Allowing administration of drug and alcohol tests if requested by a  
41 member of the intensive probation team.

42           6. Performing not less than forty hours of community ~~service~~  
43 RESTITUTION each month. Full-time students may be exempted or required to  
44 perform fewer hours of community ~~service~~ RESTITUTION. For good cause, the

1 court may reduce the number of community service RESTITUTION hours performed  
2 to not less than twenty hours each month.

3 7. Meeting any other conditions imposed by the court to meet the needs  
4 of the offender and limit the risks to the community, including participation  
5 in a program of community punishment authorized in title 12, chapter 2,  
6 article 11.

7 Sec. 17. Section 13-3405, Arizona Revised Statutes, is amended to  
8 read:

9 13-3405. Possession, use, production, sale or transportation of  
10 marijuana; classification

11 A. A person shall not knowingly:

12 1. Possess or use marijuana.

13 2. Possess marijuana for sale.

14 3. Produce marijuana.

15 4. Transport for sale, import into this state or offer to transport  
16 for sale or import into this state, sell, transfer or offer to sell or  
17 transfer marijuana.

18 B. A person who violates:

19 1. Subsection A, paragraph 1 of this section involving an amount of  
20 marijuana not possessed for sale having a weight of less than two pounds is  
21 guilty of a class 6 felony.

22 2. Subsection A, paragraph 1 of this section involving an amount of  
23 marijuana not possessed for sale having a weight of at least two pounds but  
24 less than four pounds is guilty of a class 5 felony.

25 3. Subsection A, paragraph 1 of this section involving an amount of  
26 marijuana not possessed for sale having a weight of four pounds or more is  
27 guilty of a class 4 felony.

28 4. Subsection A, paragraph 2 of this section involving an amount of  
29 marijuana having a weight of less than two pounds is guilty of a class 4  
30 felony.

31 5. Subsection A, paragraph 2 of this section involving an amount of  
32 marijuana having a weight of at least two pounds but not more than four  
33 pounds is guilty of a class 3 felony.

34 6. Subsection A, paragraph 2 of this section involving an amount of  
35 marijuana having a weight of more than four pounds is guilty of a class 2  
36 felony.

37 7. Subsection A, paragraph 3 of this section involving an amount of  
38 marijuana having a weight of less than two pounds is guilty of a class 5  
39 felony.

40 8. Subsection A, paragraph 3 of this section involving an amount of  
41 marijuana having a weight of at least two pounds but not more than four  
42 pounds is guilty of a class 4 felony.

43 9. Subsection A, paragraph 3 of this section involving an amount of  
44 marijuana having a weight of four pounds or more is guilty of a class 3  
45 felony.

1        10. Subsection A, paragraph 4 of this section involving an amount of  
2 marijuana having a weight of less than two pounds is guilty of a class 3  
3 felony.

4        11. Subsection A, paragraph 4 of this section involving an amount of  
5 marijuana having a weight of two pounds or more is guilty of a class 2  
6 felony.

7        C. If the aggregate amount of marijuana involved in one offense or all  
8 of the offenses that are consolidated for trial equals or exceeds the  
9 statutory threshold amount, a person who is sentenced pursuant to ~~the~~  
10 ~~provisions of~~ subsection B, paragraph 5, 6, 8, 9 or 11 of this section is not  
11 eligible for suspension of sentence, probation, pardon or release from  
12 confinement on any basis until the person has served the sentence imposed by  
13 the court, the person is eligible for release pursuant to section 41-1604.07  
14 or the sentence is commuted.

15        D. In addition to any other penalty prescribed by this title, the  
16 court shall order a person who is convicted of a violation of any provision  
17 of this section to pay a fine of not less than seven hundred fifty dollars or  
18 three times the value as determined by the court of the marijuana involved in  
19 or giving rise to the charge, whichever is greater, and not more than the  
20 maximum authorized by chapter 8 of this title. A judge shall not suspend any  
21 part or all of the imposition of any fine required by this subsection.

22        E. A person who is convicted of a felony violation of any provision of  
23 this section for which probation or release before the expiration of the  
24 sentence imposed by the court is authorized is prohibited from using any  
25 marijuana, dangerous drug or narcotic drug except as lawfully administered by  
26 a practitioner and as a condition of any probation or release shall be  
27 required to submit to drug testing administered under the supervision of the  
28 probation department of the county or the state department of corrections as  
29 appropriate during the duration of the term of probation or before the  
30 expiration of the sentence imposed.

31        F. If the aggregate amount of marijuana involved in one offense or all  
32 of the offenses that are consolidated for trial is less than the statutory  
33 threshold amount, a person who is sentenced pursuant to ~~the provisions of~~  
34 subsection B, paragraph 4, 7 or 10 AND WHO is granted probation by the court  
35 shall be ordered by the court that as a condition of probation the person  
36 perform not less than two hundred forty hours of community ~~service~~  
37 RESTITUTION with an agency or organization providing counseling,  
38 rehabilitation or treatment for alcohol or drug abuse, an agency or  
39 organization that provides medical treatment to persons who abuse controlled  
40 substances, an agency or organization that serves persons who are victims of  
41 crime or any other appropriate agency or organization.

42        G. If a person who is sentenced pursuant to ~~the provisions of~~  
43 subsection B, paragraph 1, 2 or 3 of this section is granted probation for a  
44 felony violation of this section, the court shall order that as a condition  
45 of probation the person perform not less than twenty-four hours of community

1 service RESTITUTION with an agency or organization providing counseling,  
2 rehabilitation or treatment for alcohol or drug abuse, an agency or  
3 organization that provides medical treatment to persons who abuse controlled  
4 substances, an agency or organization that serves persons who are victims of  
5 crimes or any other appropriate agency or organization.

6 H. If a person is granted probation for a misdemeanor violation of  
7 this section, the court shall order as a condition of probation that the  
8 person attend eight hours of instruction on the nature and harmful effects of  
9 narcotic drugs, marijuana and other dangerous drugs on the human system, and  
10 on the laws related to the control of these substances, or perform  
11 twenty-four hours of community service RESTITUTION.

12 Sec. 18. Section 13-3406, Arizona Revised Statutes, is amended to  
13 read:

14 13-3406. Possession, use, administration, acquisition, sale,  
15 manufacture or transportation of prescription-only  
16 drugs; classification

17 A. A person shall not knowingly:

18 1. Possess or use a prescription-only drug unless the person obtains  
19 the prescription-only drug pursuant to a valid prescription of a prescriber  
20 who is licensed pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 21,  
21 25 or 29 or is similarly licensed in another state.

22 2. Unless the person holds a license or a permit issued pursuant to  
23 title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29, possess a  
24 prescription-only drug for sale.

25 3. Unless the person holds a license or a permit issued pursuant to  
26 title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29, possess  
27 equipment and chemicals for the purpose of manufacturing a prescription-only  
28 drug.

29 4. Unless the person holds a license or a permit issued pursuant to  
30 title 32, chapter 18, manufacture a prescription-only drug.

31 5. Administer a prescription-only drug to another person whose  
32 possession or use of the prescription-only drug violates any provision of  
33 this section.

34 6. Obtain or procure the administration of a prescription-only drug by  
35 fraud, deceit, misrepresentation or subterfuge.

36 7. Unless the person is authorized, transport for sale, import into  
37 this state or offer to transport for sale or import into this state, sell,  
38 transfer or offer to sell or transfer a prescription-only drug.

39 B. A person who violates:

40 1. Subsection A, paragraph 1, 3, 4, 5 or 6 is guilty of a class 1  
41 misdemeanor.

42 2. Subsection A, paragraph 2 or 7 is guilty of a class 6 felony.

43 C. In addition to any other penalty prescribed by this title, the  
44 court shall order a person who is convicted of a violation of any provision  
45 of this section to pay a fine of one thousand dollars. A judge shall not

1 suspend any part or all of the imposition of any fine required by this  
2 subsection.

3 D. A person who is convicted of a felony violation of a provision of  
4 this section for which probation or release before the expiration of the  
5 sentence imposed by the court is authorized is prohibited from using any  
6 marijuana, dangerous drug, narcotic drug or prescription-only drug except as  
7 lawfully administered by a practitioner and as a condition of any probation  
8 or release shall be required to submit to drug testing administered under the  
9 supervision of the probation department of the county or the state department  
10 of corrections, as appropriate, during the duration of the term of probation  
11 or before the expiration of the sentence imposed.

12 E. If a person who is convicted of a violation of a provision of  
13 subsection A, paragraph 2 or 7 is granted probation, the court shall order  
14 that as a condition of probation the person perform not less than two hundred  
15 forty hours of community service RESTITUTION with an agency or organization  
16 providing counseling, rehabilitation or treatment for alcohol or drug abuse,  
17 an agency or organization that provides medical treatment to persons who  
18 abuse controlled substances, an agency or organization that serves persons  
19 who are victims of crime or any other appropriate agency or organization.

20 Sec. 19. Section 13-3407, Arizona Revised Statutes, is amended to  
21 read:

22 13-3407. Possession, use, administration, acquisition, sale,  
23 manufacture or transportation of dangerous drugs;  
24 classification

25 A. A person shall not knowingly:

- 26 1. Possess or use a dangerous drug.  
27 2. Possess a dangerous drug for sale.  
28 3. Possess equipment or chemicals, or both, for the purpose of  
29 manufacturing a dangerous drug.  
30 4. Manufacture a dangerous drug.  
31 5. Administer a dangerous drug to another person.  
32 6. Obtain or procure the administration of a dangerous drug by fraud,  
33 deceit, misrepresentation or subterfuge.  
34 7. Transport for sale, import into this state or offer to transport  
35 for sale or import into this state, sell, transfer or offer to sell or  
36 transfer a dangerous drug.

37 B. A person who violates:

- 38 1. Subsection A, paragraph 1 of this section is guilty of a class 4  
39 felony. Unless the drug involved is lysergic acid diethylamide,  
40 methamphetamine, amphetamine or phencyclidine or the person was previously  
41 convicted of a felony offense or a violation of this section or section  
42 13-3408, the court on motion of the state, considering the nature and  
43 circumstances of the offense, for a person not previously convicted of any  
44 felony offense or a violation of this section or section 13-3408 may enter  
45 judgment of conviction for a class 1 misdemeanor and make disposition

1 accordingly or may place the defendant on probation in accordance with  
2 chapter 9 of this title and refrain from designating the offense as a felony  
3 or misdemeanor until the probation is successfully terminated. The offense  
4 shall be treated as a felony for all purposes until the court enters an order  
5 designating the offense a misdemeanor.

6 2. Subsection A, paragraph 2 of this section is guilty of a class 2  
7 felony.

8 3. Subsection A, paragraph 3 of this section is guilty of a class 3  
9 felony.

10 4. Subsection A, paragraph 4 of this section is guilty of a class 2  
11 felony.

12 5. Subsection A, paragraph 5 of this section is guilty of a class 2  
13 felony.

14 6. Subsection A, paragraph 6 of this section is guilty of a class 3  
15 felony.

16 7. Subsection A, paragraph 7 of this section is guilty of a class 2  
17 felony.

18 C. A person who is convicted of a violation of subsection A, paragraph  
19 1, 3 or 6 and who has not previously been convicted of any felony or who has  
20 not been sentenced pursuant to section 13-604 or any other law making the  
21 convicted person ineligible for probation is eligible for probation.

22 D. If the aggregate amount of dangerous drugs involved in one offense  
23 or all of the offenses that are consolidated for trial equals or exceeds the  
24 statutory threshold amount, a person who is convicted of a violation of  
25 subsection A, paragraph 2, 5 or 7 of this section is not eligible for  
26 suspension of sentence, probation, pardon or release from confinement on any  
27 basis until the person has served the sentence imposed by the court, the  
28 person is eligible for release pursuant to section 41-1604.07 or the sentence  
29 is commuted.

30 E. A person who is convicted of a violation of subsection A, paragraph  
31 4 of this section is not eligible for suspension of sentence, probation,  
32 pardon or release from confinement on any basis until the person has served  
33 the sentence imposed by the court, the person is eligible for release  
34 pursuant to section 41-1604.07 or the sentence is commuted.

35 F. If a person is convicted of a violation of subsection A, paragraph  
36 5 of this section, if the drug is administered without the other person's  
37 consent, if the other person is under eighteen years of age and if the drug  
38 is flunitrazepam, gamma hydroxy butrate or ketamine hydrochloride, the  
39 convicted person is not eligible for suspension of sentence, probation,  
40 pardon or release from confinement on any basis until the person has served  
41 the sentence imposed by the court, the person is eligible for release  
42 pursuant to section 41-1604.07 or the sentence is commuted.

43 G. In addition to any other penalty prescribed by this title, the  
44 court shall order a person who is convicted of a violation of any provision  
45 of this section to pay a fine of not less than one thousand dollars or three

1 times the value as determined by the court of the dangerous drugs involved in  
2 or giving rise to the charge, whichever is greater, and not more than the  
3 maximum authorized by chapter 8 of this title. A judge shall not suspend any  
4 part or all of the imposition of any fine required by this subsection.

5 H. A person who is convicted of a violation of a provision of this  
6 section for which probation or release before the expiration of the sentence  
7 imposed by the court is authorized is prohibited from using any marijuana,  
8 dangerous drug, narcotic drug or prescription-only drug except as lawfully  
9 administered by a health care practitioner and as a condition of any  
10 probation or release shall be required to submit to drug testing administered  
11 under the supervision of the probation department of the county or the state  
12 department of corrections, as appropriate, during the duration of the term of  
13 probation or before the expiration of the sentence imposed.

14 I. If a person who is convicted of a violation of a provision of this  
15 section is granted probation, the court shall order that as a condition of  
16 probation the person perform not less than three hundred sixty hours of  
17 community ~~service~~ RESTITUTION with an agency or organization providing  
18 counseling, rehabilitation or treatment for alcohol or drug abuse, an agency  
19 or organization that provides medical treatment to persons who abuse  
20 controlled substances, an agency or organization that serves persons who are  
21 victims of crime or any other appropriate agency or organization.

22 Sec. 20. Section 13-3408, Arizona Revised Statutes, is amended to  
23 read:

24 13-3408. Possession, use, administration, acquisition, sale,  
25 manufacture or transportation of narcotic drugs;  
26 classification

27 A. A person shall not knowingly:

- 28 1. Possess or use a narcotic drug.
- 29 2. Possess a narcotic drug for sale.
- 30 3. Possess equipment or chemicals, or both, for the purpose of  
31 manufacturing a narcotic drug.
- 32 4. Manufacture a narcotic drug.
- 33 5. Administer a narcotic drug to another person.
- 34 6. Obtain or procure the administration of a narcotic drug by fraud,  
35 deceit, misrepresentation or subterfuge.
- 36 7. Transport for sale, import into this state, offer to transport for  
37 sale or import into this state, sell, transfer or offer to sell or transfer a  
38 narcotic drug.

39 B. A person who violates:

- 40 1. Subsection A, paragraph 1 of this section is guilty of a class 4  
41 felony.
- 42 2. Subsection A, paragraph 2 of this section is guilty of a class 2  
43 felony.
- 44 3. Subsection A, paragraph 3 of this section is guilty of a class 3  
45 felony.



1           4. Subsection A, paragraph 4 of this section is guilty of a class 2  
2 felony.

3           5. Subsection A, paragraph 5 of this section is guilty of a class 2  
4 felony.

5           6. Subsection A, paragraph 6 of this section is guilty of a class 3  
6 felony.

7           7. Subsection A, paragraph 7 of this section is guilty of a class 2  
8 felony.

9           C. A person who is convicted of a violation of subsection A, paragraph  
10 1, 3 or 6 of this section and who has not previously been convicted of any  
11 felony or WHO HAS not BEEN sentenced pursuant to section 13-604 or any other  
12 provision of law making the convicted person ineligible for probation is  
13 eligible for probation.

14          D. If the aggregate amount of narcotic drugs involved in one offense  
15 or all of the offenses that are consolidated for trial equals or exceeds the  
16 statutory threshold amount, a person who is convicted of a violation of  
17 subsection A, paragraph 2, 5 or 7 of this section is not eligible for  
18 suspension of sentence, probation, pardon or release from confinement on any  
19 basis until the person has served the sentence imposed by the court, the  
20 person is eligible for release pursuant to section 41-1604.07 or the sentence  
21 is commuted.

22          E. A person who is convicted of a violation of subsection A, paragraph  
23 4 of this section is not eligible for suspension of sentence, probation,  
24 pardon or release from confinement on any basis until the person has served  
25 the sentence imposed by the court, the person is eligible for release  
26 pursuant to section 41-1604.07 or the sentence is commuted.

27          F. In addition to any other penalty prescribed by this title, the  
28 court shall order a person who is convicted of a violation of any provision  
29 of this section to pay a fine of not less than two thousand dollars or three  
30 times the value as determined by the court of the narcotic drugs involved in  
31 or giving rise to the charge, whichever is greater, and not more than the  
32 maximum authorized by chapter 8 of this title. A judge shall not suspend any  
33 part or all of the imposition of any fine required by this subsection.

34          G. A person who is convicted of a violation of a provision of this  
35 section for which probation or release before the expiration of the sentence  
36 imposed by the court is authorized is prohibited from using any marijuana,  
37 dangerous drug, narcotic drug or prescription-only drug except as lawfully  
38 administered by a health care practitioner and as a condition of any  
39 probation or release shall be required to submit to drug  
40 testing administered under the supervision of the probation department of  
41 the county or the state department of corrections, as appropriate, during the  
42 duration of the term of probation or before the expiration of the sentence  
43 imposed.

44          H. If a person who is convicted of a violation of this section is  
45 granted probation, the court shall order that as a condition of probation the

1 person perform not less than three hundred sixty hours of community ~~service~~  
2 RESTITUTION with an agency or organization that provides counseling,  
3 rehabilitation or treatment for alcohol or drug abuse, an agency or  
4 organization that provides medical treatment to persons who abuse controlled  
5 substances, an agency or organization that serves persons who are victims of  
6 crime or any other appropriate agency or organization.

7 Sec. 21. Section 13-3416, Arizona Revised Statutes, is amended to  
8 read:

9 13-3416. Probationer; payment of costs

10 In addition to any other fines or assessments, persons placed on  
11 probation for a violation of this chapter with a condition to participate in  
12 community ~~service~~ RESTITUTION, drug testing or antidrug abuse education may  
13 be required by the court to pay any reasonable costs associated with  
14 participation in these programs.

15 Sec. 22. Section 13-3826, Arizona Revised Statutes, is amended to  
16 read:

17 13-3826. Community notification guidelines committee; members;  
18 duties; definition

19 A. The community notification guidelines committee is established  
20 consisting of the following members:

21 1. A member of the senate who is appointed by the president of the  
22 senate to serve as cochair of the committee.

23 2. A member of the house of representatives who is appointed by the  
24 speaker of the house of representatives to serve as cochair of the committee.

25 3. The attorney general or the attorney general's designee.

26 4. The chairman of the senate judiciary committee or its successor  
27 committee, who serves as an advisory member.

28 5. A member of the minority party in the senate who is appointed by  
29 the president of the senate and who serves as an advisory member.

30 6. The chairman of the house of representatives judiciary committee or  
31 its successor committee, who serves as an advisory member.

32 7. A member of the minority party in the house of representatives who  
33 is appointed by the speaker of the house of representatives and who serves as  
34 an advisory member.

35 8. Two sheriffs or their designees who are appointed by the president  
36 of the Arizona county attorneys and sheriffs association, one of whom  
37 represents a county with a population of more than four hundred thousand  
38 persons according to the most recent United States decennial census and one  
39 of whom represents a county with a population of four hundred thousand  
40 persons or less according to the most recent United States decennial census.

41 9. Two chiefs of police or their designees who are appointed by the  
42 president of the Arizona association of chiefs of police, one of whom  
43 represents a city or town in a county with a population of more than four  
44 hundred thousand persons according to the most recent United States decennial  
45 census and one of whom represents a city or town in a county with a

1 population of four hundred thousand persons or less according to the most  
2 recent United States decennial census.

3 10. Two county attorneys or their designees who are appointed by the  
4 chairman of the Arizona prosecuting attorneys' advisory council, one of whom  
5 represents a county with a population of more than four hundred thousand  
6 persons according to the most recent United States decennial census and one  
7 of whom represents a county with a population of four hundred thousand  
8 persons or less according to the most recent United States decennial census.

9 11. Two county adult probation officers or their designees who are  
10 appointed by the chief justice of the supreme court, one of whom represents a  
11 county with a population of more than four hundred thousand persons according  
12 to the most recent United States decennial census and one of whom represents  
13 a county with a population of four hundred thousand persons or less according  
14 to the most recent United States decennial census.

15 12. One state adult parole administrator or the administrator's  
16 designee who is appointed by the governor.

17 13. The director of the department of public safety or the director's  
18 designee.

19 14. The director of the department of transportation or the director's  
20 designee.

21 15. One person who is licensed under title 32, chapter 19.1 and who is  
22 appointed by the state board of psychologist examiners.

23 16. One representative of a public defender's office WHO IS recommended  
24 by an association of public defenders AND who is appointed by the speaker of  
25 the house of representatives.

26 17. One advocate or community ~~service~~ RESTITUTION provider who is  
27 appointed by the president of the senate.

28 18. Two public members, one of whom is appointed by the president of  
29 the senate and one of whom is appointed by the speaker of the house of  
30 representatives.

31 B. Appointed members serve two year terms.

32 C. The members shall meet at a time and place set by the  
33 cochairpersons.

34 D. Members of the committee are not eligible to receive compensation  
35 but are eligible for reimbursement of expenses pursuant to title 38, chapter  
36 4, article 2.

37 E. The committee shall:

38 1. Adopt community notification guidelines. The committee shall  
39 monitor the implementation of the community notification guidelines that the  
40 committee adopts. The guidelines shall provide for levels of notification  
41 based on the risk that a particular sex offender poses to the community. The  
42 notification requirements are as follows:

43 (a) For level two and level three offenders, the notification shall be  
44 made to the surrounding neighborhood, area schools, appropriate community  
45 groups and prospective employers. The notification shall include a flyer

1 with a photograph and exact address of the offender as well as a summary of  
2 the offender's status and criminal background. A press release and a level  
3 two or level three flyer shall be given to the local electronic and print  
4 media to enable information to be placed in a local publication. If a level  
5 two or level three offender fails to register or reregister pursuant to  
6 section 13-3821 or 13-3822 and a warrant is issued, before the issuance of  
7 the warrant the law enforcement agency that requested the warrant shall  
8 assemble, print and distribute appropriate flyers regarding the offender.

9 (b) For level one offenders, the local law enforcement agency that is  
10 responsible for notification shall maintain information about the  
11 offender. The local law enforcement agency may disseminate this information  
12 to other law enforcement agencies and may give notification to the people  
13 with whom the offender resides. If a level one offender fails to register or  
14 reregister pursuant to section 13-3821 or 13-3822 and a warrant is issued,  
15 before the issuance of the warrant the law enforcement agency that requested  
16 the warrant may assemble, print and distribute appropriate flyers regarding  
17 the offender.

18 2. Develop and recommend a process for a sex offender to request a  
19 notification level review and for the court to determine if a sex offender  
20 notification level may be reduced or the offender is no longer required to  
21 register. The committee shall submit a report of its recommendation to the  
22 governor, the president of the senate and the speaker of the house of  
23 representatives on or before December 15, 2004 and shall provide a copy of  
24 this report to the secretary of state and the director of the Arizona state  
25 library, archives and public records.

26 3. Study whether there is uniform and consistent application of the  
27 community notification guidelines on a statewide basis, including whether  
28 offenders who pose similar risks are assigned similar notification levels in  
29 different jurisdictions.

30 F. The committee shall adopt guidelines regarding how community  
31 notification pursuant to section 13-3825, subsection K should be conducted,  
32 including whether community notification should occur. The guidelines should  
33 provide for flexibility based on resources and the availability of  
34 records. The committee may adopt procedures that allow offenders required to  
35 register to not be classified if necessary records are not reasonably  
36 available.

37 G. For the purposes of this section, "advisory member" means a member  
38 who advises other committee members during meetings but who is ineligible to  
39 vote and who is not a member for the purposes of determining if a quorum is  
40 present.

41 Sec. 23. Section 28-672, Arizona Revised Statutes, is amended to read:

42 28-672. Accidents and moving violations; serious physical  
43 injury; death; penalties

44 A. A person is responsible for a civil traffic violation if the person  
45 violates any one of the following and the violation results in an accident

1 causing serious physical injury as defined in section 13-105 to another  
2 person:

- 3 1. Section 28-645, subsection A, paragraph 3, subdivision (a).
- 4 2. Section 28-772.
- 5 3. Section 28-792.
- 6 4. Section 28-794.
- 7 5. Section 28-797, subsection E or G.
- 8 6. Section 28-855, subsection B.

9 B. A person who violates subsection A of this section is subject to a  
10 civil penalty of up to five hundred dollars, the person shall attend and  
11 successfully complete traffic survival school training and educational  
12 sessions that are designed to improve the safety and habits of drivers and  
13 that are approved by the department and the court shall report the judgment  
14 to the department and may direct the department to suspend the person's  
15 driving privilege for ninety days. In addition, the court may order the  
16 person to perform community ~~service~~ RESTITUTION.

17 C. A person is responsible for a civil traffic violation if the person  
18 violates any one of the following and the violation results in an accident  
19 causing death to another person:

- 20 1. Section 28-645, subsection A, paragraph 3, subdivision (a).
- 21 2. Section 28-772.
- 22 3. Section 28-792.
- 23 4. Section 28-794.
- 24 5. Section 28-797, subsection E or G.
- 25 6. Section 28-855, subsection B.

26 D. A person who violates subsection C of this section shall pay a  
27 civil penalty of one thousand dollars, the person shall attend and  
28 successfully complete traffic survival school training and educational  
29 sessions that are designed to improve the safety and habits of drivers and  
30 that are approved by the department and the court shall report the judgment  
31 to the department and may direct the department to suspend the person's  
32 driving privilege for one hundred eighty days. In addition, the court may  
33 order the person to perform community ~~service~~ RESTITUTION.

34 E. If a person's driving privilege is suspended pursuant to any other  
35 statute because of an incident involving a violation of subsection A or C of  
36 this section, the suspension period prescribed in subsection B or D of this  
37 section shall run concurrently with the other suspension period.

38 F. If a person fails to successfully complete traffic survival school  
39 training and educational sessions or perform community ~~service~~ RESTITUTION  
40 pursuant to subsection B or D of this section, the court shall notify the  
41 department and the department shall promptly suspend the driver license or  
42 permit of the driver or the privilege of a nonresident to drive a motor  
43 vehicle in this state until the order is satisfied.

1       Sec. 24. Section 28-708, Arizona Revised Statutes, is amended to read:

2       28-708. Racing on highways; classification; exception;  
3               definitions

4       A. A person shall not drive a vehicle or participate in any manner in  
5 a race, speed competition or contest, drag race or acceleration contest, test  
6 of physical endurance or exhibition of speed or acceleration or for the  
7 purpose of making a speed record on a street or highway.

8       B. A person who violates this section is guilty of a class 1  
9 misdemeanor. If a person is convicted of a second or subsequent violation of  
10 this section within twenty-four months of a first conviction, the person is  
11 guilty of a class 6 felony and is not eligible for probation, pardon,  
12 suspension of sentence or release on any other basis until the person has  
13 served not less than ten days in jail or prison.

14       C. A person WHO IS convicted of a first violation of this section  
15 shall pay a fine of not less than two hundred fifty dollars and may be  
16 ordered by the court to perform community ~~service~~ RESTITUTION.

17       D. A person WHO IS convicted of a subsequent violation of this section  
18 shall pay a fine of not less than five hundred dollars and may be ordered by  
19 the court to perform community ~~service~~ RESTITUTION.

20       E. On pronouncement of a jail sentence under this section and in cases  
21 of extreme hardship, the court may provide in the sentence that if the  
22 defendant is employed or attending school and can continue employment or  
23 school the defendant may continue the employment or school for not more than  
24 twelve hours per day nor more than five days per week, and the defendant  
25 shall spend the remaining days or parts of days in jail until the sentence is  
26 served. The court may allow the defendant to be out of jail only long enough  
27 to complete the defendant's actual hours of employment or school.

28       F. If a person is convicted of violating this section, the judge may  
29 require the surrender to a police officer of any driver license of the person  
30 and immediately forward the abstract of conviction to the department. On a  
31 first conviction, the judge may order the suspension of the driving  
32 privileges of the person for a period of not more than ninety days. In the  
33 case of a first conviction and on receipt of the abstract of conviction and  
34 order of the court, the department shall suspend the driving privileges of  
35 the person for the period of time ordered by the judge. In the case of a  
36 second or subsequent conviction for an offense committed within a period of  
37 twenty-four months and on receipt of the abstract of conviction, the  
38 department shall revoke the driving privileges of the person.

39       G. The director may authorize in writing an organized and properly  
40 controlled event to utilize a highway or part of a highway even though it is  
41 prohibited by this section. The authorization shall specify the time of the  
42 event, the highway or part of a highway to be utilized and any special  
43 conditions the director may require for the particular event.

44       H. For the purposes of this section:

45       1. "Drag race" means either:

1 (a) The operation of two or more vehicles from a point side by side at  
2 accelerating speeds in a competitive attempt to outdistance each other.

3 (b) The operation of one or more vehicles over a common selected  
4 course and from the same point for the purpose of comparing the relative  
5 speeds or power of acceleration of the vehicle or vehicles within a certain  
6 distance or time limit.

7 2. "Racing" means the use of one or more vehicles in an attempt to  
8 outgain or outdistance another vehicle or prevent another vehicle from  
9 passing.

10 Sec. 25. Section 28-1174, Arizona Revised Statutes, is amended to  
11 read:

12 28-1174. Operation restrictions; violation; classification

13 A. It is unlawful for a person to drive an off-highway vehicle with  
14 reckless disregard for the safety of persons or property.

15 B. A person who violates this section is guilty of a class 2  
16 misdemeanor.

17 C. In addition to or in lieu of the fine prescribed by this section, a  
18 judge may order the person to perform at least eight but not more than  
19 twenty-four hours of community ~~service~~ RESTITUTION or to complete an approved  
20 safety course, or both.

21 Sec. 26. Section 28-1381, Arizona Revised Statutes, is amended to  
22 read:

23 28-1381. Driving or actual physical control while under the  
24 influence; trial by jury; presumptions; admissible  
25 evidence; sentencing; classification

26 A. It is unlawful for a person to drive or be in actual physical  
27 control of a vehicle in this state under any of the following circumstances:

28 1. While under the influence of intoxicating liquor, any drug, a vapor  
29 releasing substance containing a toxic substance or any combination of  
30 liquor, drugs or vapor releasing substances if the person is impaired to the  
31 slightest degree.

32 2. If the person has an alcohol concentration of 0.08 or more within  
33 two hours of driving or being in actual physical control of the vehicle and  
34 the alcohol concentration results from alcohol consumed either before or  
35 while driving or being in actual physical control of the vehicle.

36 3. While there is any drug defined in section 13-3401 or its  
37 metabolite in the person's body.

38 4. If the vehicle is a commercial motor vehicle that requires a person  
39 to obtain a commercial driver license as defined in section 28-3001 and the  
40 person has an alcohol concentration of 0.04 or more.

41 B. It is not a defense to a charge of a violation of subsection A,  
42 paragraph 1 of this section that the person is or has been entitled to use  
43 the drug under the laws of this state.

44 C. A person who is convicted of a violation of this section is guilty  
45 of a class 1 misdemeanor.

1 D. A person using a drug prescribed by a medical practitioner licensed  
2 pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating  
3 subsection A, paragraph 3 of this section.

4 E. In any prosecution for a violation of this section, the state shall  
5 allege, for the purpose of classification and sentencing pursuant to this  
6 section, all prior convictions of violating this section, section 28-1382 or  
7 section 28-1383 occurring within the past thirty-six months, unless there is  
8 an insufficient legal or factual basis to do so.

9 F. At the arraignment, the court shall inform the defendant that the  
10 defendant may request a trial by jury and that the request, if made, shall be  
11 granted.

12 G. In a trial, action or proceeding for a violation of this section or  
13 section 28-1383 other than a trial, action or proceeding involving driving or  
14 being in actual physical control of a commercial vehicle, the defendant's  
15 alcohol concentration within two hours of the time of driving or being in  
16 actual physical control as shown by analysis of the defendant's blood, breath  
17 or other bodily substance gives rise to the following presumptions:

18 1. If there was at that time 0.05 or less alcohol concentration in the  
19 defendant's blood, breath or other bodily substance, it may be presumed that  
20 the defendant was not under the influence of intoxicating liquor.

21 2. If there was at that time in excess of 0.05 but less than 0.08  
22 alcohol concentration in the defendant's blood, breath or other bodily  
23 substance, that fact shall not give rise to a presumption that the defendant  
24 was or was not under the influence of intoxicating liquor, but that fact may  
25 be considered with other competent evidence in determining the guilt or  
26 innocence of the defendant.

27 3. If there was at that time 0.08 or more alcohol concentration in the  
28 defendant's blood, breath or other bodily substance, it may be presumed that  
29 the defendant was under the influence of intoxicating liquor.

30 H. Subsection G of this section does not limit the introduction of any  
31 other competent evidence bearing on the question of whether or not the  
32 defendant was under the influence of intoxicating liquor.

33 I. A person who is convicted of a violation of this section:

34 1. Shall be sentenced to serve not less than ten consecutive days in  
35 jail and is not eligible for probation or suspension of execution of sentence  
36 unless the entire sentence is served.

37 2. Shall pay a fine of not less than two hundred fifty dollars.

38 3. May be ordered by a court to perform community ~~service~~ RESTITUTION.

39 4. Shall pay an additional assessment of five hundred dollars to be  
40 deposited by the state treasurer in the prison construction and operations  
41 fund established by section 41-1651. This assessment is not subject to any  
42 surcharge. If the conviction occurred in the superior court or a justice  
43 court, the court shall transmit the assessed monies to the county  
44 treasurer. If the conviction occurred in a municipal court, the court shall



1 transmit the assessed monies to the city treasurer. The city or county  
2 treasurer shall transmit the monies received to the state treasurer.

3 J. Notwithstanding subsection I, paragraph 1 of this section, at the  
4 time of sentencing the judge may suspend all but twenty-four consecutive  
5 hours of the sentence if the person completes a court ordered alcohol or  
6 other drug screening, education or treatment program. If the person fails to  
7 complete the court ordered alcohol or other drug screening, education or  
8 treatment program and has not been placed on probation, the court shall issue  
9 an order to show cause to the defendant as to why the remaining jail sentence  
10 should not be served.

11 K. If within a period of sixty months a person is convicted of a  
12 second violation of this section or is convicted of a violation of this  
13 section and has previously been convicted of a violation of section 28-1382  
14 or 28-1383 or an act in another jurisdiction that if committed in this state  
15 would be a violation of this section or section 28-1382 or 28-1383, the  
16 person:

17 1. Shall be sentenced to serve not less than ninety days in jail,  
18 thirty days of which shall be served consecutively, and is not eligible for  
19 probation or suspension of execution of sentence unless the entire sentence  
20 has been served.

21 2. Shall pay a fine of not less than five hundred dollars.

22 3. May be ordered by a court to perform community service RESTITUTION.

23 4. Shall have the person's driving privilege revoked for one year. The  
24 court shall report the conviction to the department. On receipt of the  
25 report, the department shall revoke the person's driving privilege and shall  
26 require the person to equip any motor vehicle the person operates with a  
27 certified ignition interlock device pursuant to section 28-3319. In  
28 addition, the court may order the person to equip any motor vehicle the  
29 person operates with a certified ignition interlock device for more than  
30 twelve months beginning on the date of reinstatement of the person's driving  
31 privilege following a suspension or revocation or on the date of the  
32 department's receipt of the report of conviction, whichever occurs  
33 later. The person who operates a motor vehicle with a certified ignition  
34 interlock device under this paragraph shall comply with article 5 of this  
35 chapter.

36 5. Shall pay an additional assessment of one thousand two hundred  
37 fifty dollars to be deposited by the state treasurer in the prison  
38 construction and operations fund established by section 41-1651. This  
39 assessment is not subject to any surcharge. If the conviction occurred in  
40 the superior court or a justice court, the court shall transmit the assessed  
41 monies to the county treasurer. If the conviction occurred in a municipal  
42 court, the court shall transmit the assessed monies to the city  
43 treasurer. The city or county treasurer shall transmit the monies received  
44 to the state treasurer.

1 L. Notwithstanding subsection K, paragraph 1 of this section, at the  
2 time of sentencing, the judge may suspend all but thirty days of the sentence  
3 if the person completes a court ordered alcohol or other drug screening,  
4 education or treatment program. If the person fails to complete the court  
5 ordered alcohol or other drug screening, education or treatment program and  
6 has not been placed on probation, the court shall issue an order to show  
7 cause as to why the remaining jail sentence should not be served.

8 M. In applying the sixty month provision of subsection K of this  
9 section, the dates of the commission of the offense shall be the determining  
10 factor, irrespective of the sequence in which the offenses were committed.

11 N. A second violation for which a conviction occurs as provided in  
12 this section shall not include a conviction for an offense arising out of the  
13 same series of acts.

14 Sec. 27. Section 28-1382, Arizona Revised Statutes, is amended to  
15 read:

16 28-1382. Driving or actual physical control while under the  
17 extreme influence of intoxicating liquor; trial by  
18 jury; sentencing; classification

19 A. It is unlawful for a person to drive or be in actual physical  
20 control of a vehicle in this state if the person has an alcohol concentration  
21 of 0.15 or more within two hours of driving or being in actual physical  
22 control of the vehicle and the alcohol concentration results from alcohol  
23 consumed either before or while driving or being in actual physical control  
24 of the vehicle.

25 B. A person who is convicted of a violation of this section is guilty  
26 of driving or being in actual physical control of a vehicle while under the  
27 extreme influence of intoxicating liquor.

28 C. At the arraignment, the court shall inform the defendant that the  
29 defendant may request a trial by jury and that the request, if made, shall be  
30 granted.

31 D. A person who is convicted of a violation of this section:

32 1. Shall be sentenced to serve not less than thirty consecutive days  
33 in jail and is not eligible for probation or suspension of execution of  
34 sentence unless the entire sentence is served.

35 2. Shall pay a fine of not less than two hundred fifty dollars. The  
36 fine prescribed in this paragraph and any assessments, restitution and  
37 incarceration costs shall be paid before the assessment prescribed in  
38 paragraph 3 of this subsection.

39 3. Shall pay an additional assessment of two hundred fifty dollars.  
40 If the conviction occurred in the superior court or a justice court, the  
41 court shall transmit the monies received pursuant to this paragraph to the  
42 county treasurer. If the conviction occurred in a municipal court, the court  
43 shall transmit the monies received pursuant to this paragraph to the city  
44 treasurer. The city or county treasurer shall transmit the monies received  
45 to the state treasurer. The state treasurer shall deposit the monies

1 received in the driving under the influence abatement fund established by  
2 section 28-1304.

3 4. May be ordered by a court to perform community ~~service~~ RESTITUTION.

4 5. Shall be required by the department, on receipt of the report of  
5 conviction, to equip any motor vehicle the person operates with a certified  
6 ignition interlock device pursuant to section 28-3319. In addition, the  
7 court may order the person to equip any motor vehicle the person operates  
8 with a certified ignition interlock device for more than twelve months  
9 beginning on the date of reinstatement of the person's driving privilege  
10 following a suspension or revocation or on the date of the department's  
11 receipt of the report of conviction, whichever occurs later. The person who  
12 operates a motor vehicle with a certified ignition interlock device under  
13 this paragraph shall comply with article 5 of this chapter.

14 6. Shall pay an additional assessment of one thousand dollars to be  
15 deposited by the state treasurer in the prison construction and operations  
16 fund established by section 41-1651. This assessment is not subject to any  
17 surcharge. If the conviction occurred in the superior court or a justice  
18 court, the court shall transmit the assessed monies to the county  
19 treasurer. If the conviction occurred in a municipal court, the court shall  
20 transmit the assessed monies to the city treasurer. The city or county  
21 treasurer shall transmit the monies received to the state treasurer.

22 E. Notwithstanding subsection D, paragraph 1 of this section, at the  
23 time of sentencing the judge may suspend all but ten days of the sentence if  
24 the person completes a court ordered alcohol or other drug screening,  
25 education or treatment program. If the person fails to complete the court  
26 ordered alcohol or other drug screening, education or treatment program and  
27 has not been placed on probation, the court shall issue an order to show  
28 cause to the defendant as to why the remaining jail sentence should not be  
29 served.

30 F. If within a period of sixty months a person is convicted of a  
31 second violation of this section or is convicted of a violation of this  
32 section and has previously been convicted of a violation of section 28-1381  
33 or 28-1383 or an act in another jurisdiction that if committed in this state  
34 would be a violation of this section or section 28-1381 or 28-1383, the  
35 person:

36 1. Shall be sentenced to serve not less than one hundred twenty days  
37 in jail, sixty days of which shall be served consecutively, and is not  
38 eligible for probation or suspension of execution of sentence unless the  
39 entire sentence has been served.

40 2. Shall pay a fine of not less than five hundred dollars. The fine  
41 prescribed in this paragraph and any assessments, restitution and  
42 incarceration costs shall be paid before the assessment prescribed in  
43 paragraph 3 of this subsection.

44 3. Shall pay an additional assessment of two hundred fifty  
45 dollars. If the conviction occurred in the superior court or a justice

1 court, the court shall transmit the monies received pursuant to this  
2 paragraph to the county treasurer. If the conviction occurred in a municipal  
3 court, the court shall transmit the monies received pursuant to this  
4 paragraph to the city treasurer. The city or county treasurer shall transmit  
5 the monies received to the state treasurer. The state treasurer shall  
6 deposit the monies received in the driving under the influence abatement fund  
7 established by section 28-1304.

8 4. May be ordered by a court to perform community ~~service~~ RESTITUTION.

9 5. Shall have the person's driving privilege revoked for at least one  
10 year. The court shall report the conviction to the department. On receipt  
11 of the report, the department shall revoke the person's driving privilege and  
12 shall require the person to equip any motor vehicle the person operates with  
13 a certified ignition interlock device pursuant to section 28-3319. In  
14 addition, the court may order the person to equip any motor vehicle the  
15 person operates with a certified ignition interlock device for more than  
16 twelve months beginning on the date of reinstatement of the person's driving  
17 privilege following a suspension or revocation or on the date of the  
18 department's receipt of the report of conviction, whichever is later. The  
19 person who operates a motor vehicle with a certified ignition interlock  
20 device under this paragraph shall comply with article 5 of this chapter.

21 6. Shall pay an additional assessment of one thousand two hundred  
22 fifty dollars to be deposited by the state treasurer in the prison  
23 construction and operations fund established by section 41-1651. This  
24 assessment is not subject to any surcharge. If the conviction occurred in  
25 the superior court or a justice court, the court shall transmit the assessed  
26 monies to the county treasurer. If the conviction occurred in a municipal  
27 court, the court shall transmit the assessed monies to the city treasurer.  
28 The city or county treasurer shall transmit the monies received to the state  
29 treasurer.

30 G. Notwithstanding subsection F, paragraph 1 of this section, at the  
31 time of sentencing, the judge may suspend all but sixty days of the sentence  
32 if the person completes a court ordered alcohol or other drug screening,  
33 education or treatment program. If the person fails to complete the court  
34 ordered alcohol or other drug screening, education or treatment program and  
35 has not been placed on probation, the court shall issue an order to show  
36 cause as to why the remaining jail sentence should not be served.

37 H. In applying the sixty month provision of subsection F of this  
38 section, the dates of the commission of the offense shall be the determining  
39 factor, irrespective of the sequence in which the offenses were committed.

40 I. A second violation for which a conviction occurs as provided in  
41 this section shall not include a conviction for an offense arising out of the  
42 same series of acts.

43 J. A person who is convicted of a violation of this section is guilty  
44 of a class 1 misdemeanor.

1       Sec. 28. Section 28-1387, Arizona Revised Statutes, is amended to  
2 read:

3       28-1387. Prior convictions; alcohol or other drug screening,  
4                   education and treatment; license suspension;  
5                   supervised probation; civil liability; procedures

6       A. The court shall allow the allegation of a prior conviction or any  
7 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or  
8 an act in another jurisdiction that if committed in this state would be a  
9 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days  
10 before the date the case is actually tried and may allow the allegation of a  
11 prior conviction or any other pending charge of a violation of section  
12 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if  
13 committed in this state would be a violation of section 28-1381, 28-1382 or  
14 28-1383 filed at any time before the date the case is actually tried if this  
15 state makes available to the defendant when the allegation is filed a copy of  
16 any information obtained concerning the prior conviction or other pending  
17 charge. Any conviction may be used to enhance another conviction  
18 irrespective of the dates on which the offenses occurred within the sixty  
19 month provision. For the purposes of this article, an order of a juvenile  
20 court adjudicating a person delinquent is equivalent to a conviction.

21       B. In addition to any other penalties prescribed by law, the judge  
22 shall order a person who is convicted of a violation of section 28-1381 or  
23 28-1382 to complete alcohol or other drug screening that is provided by a  
24 facility approved by the department of health services or a probation  
25 department. If a judge determines that the person requires further alcohol  
26 or other drug education or treatment, the person may be required pursuant to  
27 court order to obtain alcohol or other drug education or treatment under the  
28 court's supervision from an approved facility. The judge may review an  
29 education or treatment determination at the request of the state or the  
30 defendant or on the judge's initiative. The person shall pay the costs of  
31 the screening, education or treatment unless the court waives part or all of  
32 the costs. If a person is referred to a screening, education or treatment  
33 facility, the facility shall report to the court whether the person has  
34 successfully completed the screening, education or treatment program.

35       C. After a person who is sentenced pursuant to section 28-1381,  
36 subsection I has served twenty-four consecutive hours in jail or after a  
37 person who is sentenced pursuant to section 28-1381, subsection K or section  
38 28-1382, subsection D or F has served forty-eight consecutive hours in jail  
39 and after the court receives confirmation that the person is employed or is a  
40 student, the court may provide in the sentence that the defendant, if the  
41 defendant is employed or is a student and can continue the defendant's  
42 employment or studies, may continue the employment or studies for not more  
43 than twelve hours a day nor more than five days a week. The person shall  
44 spend the remaining day, days or parts of days in jail until the sentence is

1 served and shall be allowed out of jail only long enough to complete the  
2 actual hours of employment or studies.

3 D. Unless the license of a person convicted under section 28-1381 or  
4 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the  
5 department on receipt of the abstract of conviction of a violation of section  
6 28-1381 or 28-1382 shall suspend the license of the affected person for not  
7 less than ninety consecutive days.

8 E. When the department receives notification that the person meets the  
9 criteria provided in section 28-1385, subsection F, the department shall  
10 suspend the driving privileges of the person for not less than thirty  
11 consecutive days and shall restrict the driving privileges of the person for  
12 not less than sixty consecutive additional days to travel between any of the  
13 following:

14 1. The person's place of employment and residence and during specified  
15 periods of time while at employment.

16 2. The person's place of residence and the person's secondary or  
17 postsecondary school, according to the person's employment or educational  
18 schedule.

19 3. The person's place of residence and a treatment facility for  
20 scheduled appointments.

21 4. The person's place of residence and the office of the person's  
22 probation officer for scheduled appointments.

23 F. If a person is placed on probation for violating section 28-1381 or  
24 28-1382, the probation shall be supervised unless the court finds that  
25 supervised probation is not necessary or the court does not have supervisory  
26 probation services.

27 G. Any political subdivision processing or using the services of a  
28 person ordered to perform community ~~service~~ RESTITUTION pursuant to section  
29 28-1381 or 28-1382 does not incur any civil liability to the person ordered  
30 to perform community ~~service~~ RESTITUTION as a result of these activities  
31 unless the political subdivision or its agent or employee acts with gross  
32 negligence.

33 H. Except for another violation of this article, the state shall not  
34 dismiss a charge of violating any provision of this article unless there is  
35 an insufficient legal or factual basis to pursue that charge.

36 Sec. 29. Section 28-8284, Arizona Revised Statutes, is amended to  
37 read:

38 28-8284. Violation; classification

39 A. A person who is convicted of a violation of section 28-8282 is  
40 guilty of a class 1 misdemeanor and shall be sentenced to serve not less than  
41 twenty-four consecutive hours in jail.

42 B. The court shall order the person to pay a fine of not less than two  
43 hundred fifty dollars and may order the person to perform not less than eight  
44 or more than twenty-four hours of community ~~service~~ RESTITUTION.

1 C. A court shall not grant probation to or suspend any part or all of  
2 the imposition or execution of a sentence required by this section, except on  
3 the condition that the person serve not less than twenty-four consecutive  
4 hours in jail and pay a fine of not less than two hundred fifty dollars.

5 D. The court:

6 1. Shall not excuse an offender from spending twenty-four consecutive  
7 hours in jail.

8 2. May require the offender to attend traffic safety or alcohol abuse  
9 classes at the offender's expense.

10 3. If in the court's opinion the offender has the problem of habitual  
11 abuse of alcohol or drugs, shall require the offender to obtain treatment  
12 under its supervision.

13 4. Shall order the offender to pay an additional assessment of five  
14 hundred dollars to be deposited by the state treasurer in the prison  
15 construction and operations fund established by section 41-1651. This  
16 assessment is not subject to any surcharge. If the conviction occurred in  
17 the superior court or a justice court, the court shall transmit the assessed  
18 monies to the county treasurer. If the conviction occurred in a municipal  
19 court, the court shall transmit the assessed monies to the city treasurer.  
20 The city or county treasurer shall transmit the monies received to the state  
21 treasurer.

22 E. Notwithstanding subsection A of this section, the judge may  
23 sentence a person pursuant to section 28-8286 instead of pursuant to  
24 subsection A of this section, if all of the following conditions are met:

25 1. The person is convicted of a violation of section 28-8282.

26 2. The prosecutor alleges the provisions of this subsection.

27 3. The court finds that alternative sentencing will serve the best  
28 interests of this state and that the person:

29 (a) Has not been convicted of one or more violations of section  
30 28-8282 within sixty months of the date of commission of the acts out of  
31 which the charges arose. The dates of commission of the offense are the  
32 determining factor in applying this paragraph.

33 (b) Was not flying with 0.08 per cent or more by weight of alcohol in  
34 the person's blood.

35 (c) Did not cause serious physical injury as defined in section 13-105  
36 to another person during the same event or course of conduct that resulted in  
37 the conviction for which the person is to be sentenced.

38 Sec. 30. Section 28-8286, Arizona Revised Statutes, is amended to  
39 read:

40 28-8286. Alternative sentencing

41 If pursuant to section 28-8284, subsection E a court orders a person  
42 convicted of a violation of section 28-8282 to be sentenced pursuant to this  
43 section, the court:

44 1. Shall order the person to pay a fine of not less than two hundred  
45 fifty dollars.

1           2. May order the person to perform not less than eight or more than  
2 twenty-four hours of community ~~service~~ RESTITUTION.

3           3. May require the person to attend traffic safety or alcohol abuse  
4 classes at the person's expense.

5           4. If in the court's opinion the person has the problem of habitual  
6 abuse of alcohol or drugs, shall require the person to obtain treatment under  
7 its supervision.

8           5. Shall not suspend any part or all of the imposition or execution of  
9 any sentence required by this section.

10          6. Shall order the person to pay an additional assessment of five  
11 hundred dollars to be deposited by the state treasurer in the prison  
12 construction and operations fund established by section 41-1651. This  
13 assessment is not subject to any surcharge. If the conviction occurred in  
14 the superior court or a justice court, the court shall transmit the assessed  
15 monies to the county treasurer. If the conviction occurred in a municipal  
16 court, the court shall transmit the assessed monies to the city treasurer.  
17 The city or county treasurer shall transmit the monies received to the state  
18 treasurer.

19          Sec. 31. Section 28-8289, Arizona Revised Statutes, is amended to  
20 read:

21           28-8289. Political subdivision; immunity

22          A political subdivision processing or utilizing the services of a  
23 person ordered to perform community ~~service~~ RESTITUTION pursuant to this  
24 article is not civilly liable to the person ordered to perform community  
25 ~~service~~ RESTITUTION as a result of these activities unless the political  
26 subdivision or its agent or employee is guilty of gross negligence.

27          Sec. 32. Section 31-411, Arizona Revised Statutes, is amended to read:

28           31-411. Parole or discharge; conditions of parole; release  
29                   under supervision of state department of corrections;  
30                   notice of hearing; exceptions

31          A. Any prisoner who has been certified as eligible for parole or  
32 absolute discharge from imprisonment pursuant to section 31-412, subsection B  
33 or section 41-1604.09 shall be given an opportunity to apply for release upon  
34 parole or for an absolute discharge from imprisonment. The board of  
35 executive clemency shall not entertain any other form of application or  
36 petition for the release upon parole or absolute discharge from imprisonment  
37 of any prisoner.

38          B. A prisoner WHO IS eligible for parole or absolute discharge from  
39 imprisonment shall be given an opportunity to be heard either before a  
40 hearing officer designated by the board or the board itself, at the  
41 discretion of the board.

42          C. If the hearing is heard by a hearing officer, the hearing officer  
43 shall make a recommendation on application for parole or absolute discharge  
44 from imprisonment to the board within thirty days after the hearing  
45 date. Within thirty days after the date of the hearing officer's



1 recommendations, the board shall review these recommendations and either  
2 approve, with or without conditions, or reject the prisoner's application for  
3 parole or absolute discharge from imprisonment. A prisoner WHO IS eligible  
4 for parole or absolute discharge from imprisonment shall not be denied parole  
5 or absolute discharge from imprisonment without an opportunity to be heard  
6 before the board unless another form of release has been granted.

7 D. If parole is granted, the prisoner shall remain on parole unless  
8 the board revokes the parole or grants an absolute discharge from parole or  
9 until the prisoner reaches the individual earned release credit date pursuant  
10 to section 41-1604.10. If the prisoner violates a condition of parole but  
11 has not committed an additional offense, the board may place the prisoner on  
12 electronic monitoring and order the defendant to participate in a community  
13 accountability program pursuant to section 41-1609.05. If the prisoner is  
14 still on parole on reaching the individual earned release credit date  
15 pursuant to section 41-1604.10, the prisoner shall be terminated from parole  
16 but shall be subject to revocation under section 41-1604.10. When the  
17 prisoner reaches the individual earned release credit date the prisoner's  
18 parole shall be terminated and the prisoner shall no longer be under the  
19 authority of the board.

20 E. During the period of time that the prisoner remains on supervised  
21 parole under subsection D of this section, the board shall require as a  
22 condition of parole that the prisoner pay a monthly supervision fee of not  
23 less than thirty dollars unless, after determining the inability of the  
24 prisoner to pay the fee, the board requires payment of a lesser amount. The  
25 supervising parole officer shall monitor the collection of the fee. The  
26 board may also impose any conditions of parole it deems appropriate in order  
27 to ensure that the best interests of the prisoner and the citizens of this  
28 state are served. These conditions may include:

- 29 1. Participation in a rehabilitation program or counseling.
- 30 2. Performance of community ~~service~~ RESTITUTION work.

31 F. Monies collected pursuant to subsection E of this section shall be  
32 deposited, pursuant to sections 35-146 and 35-147, in the victim compensation  
33 and assistance fund established by section 41-2407.

34 G. When parole or absolute discharge from imprisonment is denied, the  
35 board, within ten days, shall prepare and deliver to the director of the  
36 state department of corrections a written statement specifying the  
37 individualized reasons for the denial of parole or absolute discharge from  
38 imprisonment unless another form of release has been granted. The prisoner  
39 may view the written statement prepared by the board. Every prisoner, having  
40 served not less than one year, may be temporarily released according to the  
41 rules of the department one hundred eighty days ~~prior to~~ BEFORE the  
42 expiration of the sentence or the earned release credit date, whichever first  
43 occurs, if the director finds that ~~such~~ THE release is in the best interest  
44 of the state. The releasee shall remain under THE control of the state  
45 department of corrections until expiration of the term specified in the

1 sentence. If the releasee violates any condition of release, the releasee  
2 may be returned to custody without further process.

3 H. When a commutation, absolute discharge from imprisonment or parole  
4 is to be considered, the board, on request and before holding a hearing on  
5 the commutation, absolute discharge from imprisonment or parole, shall notify  
6 the attorney general, the presiding judge of the superior court, the county  
7 attorney in the county in which the prisoner requesting a commutation,  
8 absolute discharge from imprisonment or parole was sentenced, and the victim  
9 of the offense for which the prisoner is incarcerated. The notice to the  
10 victim shall be mailed to the last known address. The notice shall state the  
11 name of the prisoner requesting the commutation, absolute discharge from  
12 imprisonment or parole and shall set the month of hearing on the  
13 application. The notice to the victim shall also inform the victim of the  
14 victim's right to be present and to submit a written report to the board  
15 expressing the victim's opinion concerning the release of the prisoner. No  
16 hearing concerning commutations, absolute discharge from imprisonment or  
17 parole shall be held until fifteen days after the date of giving the  
18 notice. On mailing the notice, the board shall file a hard copy of the  
19 notice as evidence that notification was sent.

20 I. The provisions of this section requiring notice to the officials  
21 named in subsection H of this section shall not apply:

22 1. When there is imminent danger of the death of the person convicted  
23 or imprisoned.

24 2. When the term of imprisonment of the applicant is within two  
25 hundred ten days of expiration.

26 Sec. 33. Section 41-1604.07, Arizona Revised Statutes, is amended to  
27 read:

28 41-1604.07. Earned release credits; forfeiture; restoration

29 A. Pursuant to rules adopted by the director, each prisoner in the  
30 eligible earned release credit class shall be allowed an earned release  
31 credit of one day for every six days served, including time served in county  
32 jails, except for those prisoners who are sentenced to serve the full term of  
33 imprisonment imposed by the court.

34 B. Release credits earned by a prisoner pursuant to subsection A of  
35 this section shall not reduce the term of imprisonment imposed by the court  
36 on the prisoner.

37 C. On reclassification of a prisoner resulting from the prisoner's  
38 failure to adhere to the rules of the department or failure to demonstrate a  
39 continual willingness to volunteer for or successfully participate in a work,  
40 educational, treatment or training program, the director may declare all  
41 release credits earned by the prisoner forfeited. In the discretion of the  
42 director forfeited release credits may subsequently be restored. The  
43 director shall maintain an account of release credits earned by each  
44 prisoner.

1 D. A prisoner who has reached the prisoner's earned release date or  
2 sentence expiration date shall be released to begin the prisoner's term of  
3 community supervision imposed by the court or term of probation if the court  
4 waived community supervision pursuant to section 13-603, except that the  
5 director may deny or delay the prisoner's release to community supervision or  
6 probation if the director believes the prisoner may be a sexually violent  
7 person as defined in section 36-3701 until the screening process is complete  
8 and the director determines that the prisoner will not be referred to the  
9 county attorney pursuant to section 36-3702. If the term of community  
10 supervision is waived, the state department of corrections shall provide  
11 reasonable notice to the probation department of the scheduled release of the  
12 prisoner from confinement by the department. If the court waives community  
13 supervision, the director shall issue the prisoner an absolute discharge on  
14 the prisoner's earned release credit date. A prisoner who is released on the  
15 earned release credit date to serve a term of probation is not under the  
16 control of the state department of corrections when community supervision has  
17 been waived and the state department of corrections is not required to  
18 provide parole services.

19 E. Notwithstanding subsection D of this section, a prisoner who fails  
20 to achieve functional literacy at an eighth grade literacy level shall not be  
21 released to begin the prisoner's term of community supervision until either  
22 the prisoner achieves an eighth grade functional literacy level as measured  
23 by standardized assessment testing or the prisoner serves the full term of  
24 imprisonment imposed by the court, whichever first occurs. This subsection  
25 does not apply to inmates who are any of the following:

26 1. Unable to meet the functional literacy standard required by section  
27 31-229.02, subsection A, due to a medical, developmental or learning  
28 disability as described in section 31-229, subsection C.

29 2. Classified as level five offenders.

30 3. Foreign nationals.

31 4. Inmates who have less than six months incarceration to serve on  
32 commitment to the department.

33 F. The department shall establish conditions of community supervision  
34 it deems appropriate in order to ensure that the best interests of the  
35 prisoner and the citizens of this state are served. These conditions may  
36 include participation in a rehabilitation program or counseling and  
37 performance of community ~~service~~ RESTITUTION work, except that if the  
38 prisoner was convicted of a violation of sexual conduct with a minor under  
39 fifteen years of age or molestation of a child under fifteen years of age,  
40 the department shall impose as a condition of community supervision a  
41 prohibition on residing within four hundred forty feet of a school or its  
42 accompanying grounds. If a prisoner who reaches the prisoner's earned  
43 release credit date refuses to sign and agree to abide by the conditions of  
44 supervision before release on community supervision, the prisoner shall not  
45 be released. When the prisoner reaches the sentence expiration date, the

1 prisoner shall be released to begin the term of community supervision. If  
2 the prisoner refuses to sign and agree to abide by the conditions of release,  
3 the prisoner shall not be released on the sentence expiration date and shall  
4 serve the term of community supervision in prison. The department is  
5 required to supervise any offender on community supervision until the period  
6 of community supervision expires. The department may bring an offender in  
7 violation of the offender's terms and conditions before the board of  
8 executive clemency. For the purposes of this subsection, "school" means any  
9 public, charter or private school where children attend classes.

10 G. The director pursuant to rules adopted by the department shall  
11 authorize the release of any prisoner on the prisoner's earned release credit  
12 date to serve any consecutive term imposed on the prisoner. The release  
13 shall be for the sentence completed only. The prisoner shall remain under  
14 the custody and control of the department. The director may authorize the  
15 rescission of the release to any consecutive term if the prisoner fails to  
16 adhere to the rules of the department.

17 H. If a prisoner absconds from community supervision, any time spent  
18 before the prisoner is returned to custody is excluded in calculating the  
19 remaining period of community supervision.

20 I. A prisoner shall forfeit five days of the prisoner's earned release  
21 credits:

22 1. If the court finds or a disciplinary hearing held after a review by  
23 and recommendations from the attorney general's office determines that the  
24 prisoner does any of the following:

25 (a) Brings a claim without substantial justification.

26 (b) Unreasonably expands or delays a proceeding.

27 (c) Testifies falsely or otherwise presents false information or  
28 material to the court.

29 (d) Submits a claim that is intended solely to harass the party it is  
30 filed against.

31 2. For each time the prisoner tests positive for any prohibited drugs  
32 during the period of time the prisoner is incarcerated.

33 J. If the prisoner does not have five days of earned release credits,  
34 the prisoner shall forfeit the prisoner's existing earned release credits and  
35 shall be ineligible from accruing earned release credits until the number of  
36 earned release credits the prisoner would have otherwise accrued equals the  
37 difference between five days and the number of existing earned release credit  
38 days the prisoner forfeits pursuant to this section.

39 K. The director may authorize temporary release on inmate status of  
40 eligible inmates pursuant to rules adopted by the director within ninety days  
41 of any other authorized release date. The release authorization applies to  
42 any inmate who has been convicted of a drug offense, who has been determined  
43 to be eligible for participation in the transition program pursuant to  
44 section 31-281 and who has agreed to participate in the transition program.

1       Sec. 34. Section 41-2822, Arizona Revised Statutes, is amended to  
2 read:

3       41-2822. Committed youth work program

4       A. The director shall establish a committed youth work program for  
5 youth in secure care facilities and on conditional liberty to ensure that:

6       1. All committed youth in a secure care facility ~~shall~~ receive work  
7 assignments commensurate and compatible with the condition and limitations of  
8 the youth's physical and mental health.

9       2. Committed youth on conditional liberty, as a condition of liberty,  
10 may receive work assignments. All work assignments shall be commensurate and  
11 compatible with the condition and limitations of the youth's physical and  
12 mental health.

13       3. No committed youth in a secure CARE facility or on conditional  
14 liberty ~~shall participate~~ PARTICIPATES in a work assignment that threatens  
15 the safety and security of the public, a secure care facility or the  
16 committed youth.

17       B. A committed youth may be exempted from the work requirement if the  
18 staff determines that the exemption is necessary for the health, safety or  
19 treatment of the youth. The director or the director's authorized designee  
20 shall review and approve each exemption of a committed youth from engaging in  
21 the work requirements of this section.

22       C. Notwithstanding title 23, chapter 2, article 3 relating to youth  
23 employment, each youth who is under commitment to the department, who is  
24 confined in a secure care facility under the department's jurisdiction and  
25 who is not regularly attending and making satisfactory progress in  
26 educational classes shall engage in work for at least forty hours a week  
27 unless exempted pursuant to subsection B of this section.

28       D. Each committed youth who is engaged in productive work while under  
29 the jurisdiction of the department may receive such compensation for the  
30 youth's work as the director shall determine. The compensation shall be in  
31 accordance with a graduated schedule based on quality and quantity of work  
32 performed and skill required for its performance.

33       E. The compensation of committed youth shall be paid directly by an  
34 outside entity or out of monies received pursuant to section 8-243 or monies  
35 appropriated by the legislature.

36       F. A minimum of two-thirds of any compensation earned pursuant to this  
37 section by a committed youth in a secure care facility shall be paid to the  
38 clerk of the superior court to satisfy any juvenile court restitution order  
39 made pursuant to section 8-344. While a youth is on conditional liberty the  
40 department shall determine the amount of wages to be credited to restitution.

41       G. If a committed youth in a secure care facility is not subject to a  
42 restitution order but is subject to a monetary assessment by the court  
43 pursuant to section 8-341, subsection G or H, a minimum of two-thirds of any  
44 compensation earned shall be paid to the clerk of the superior court to  
45 satisfy the monetary assessment. While a youth is on conditional liberty the

1 department shall determine the amount of wages to be credited to a monetary  
2 assessment.

3 H. If a committed youth in a secure care facility is not subject to a  
4 restitution order or a monetary assessment, two-thirds of any compensation  
5 earned pursuant to this section shall be used to defer the costs of room and  
6 board for maintaining the committed youth at the secure care facility.

7 I. The department shall require the payment of court ordered  
8 restitution, monetary reimbursements or assessments as a term of conditional  
9 liberty.

10 J. With the approval of the juvenile court and the victim, community  
11 ~~service~~ RESTITUTION hours may be substituted for monetary restitution or  
12 monetary assessments at a rate deemed reasonable by the department.

13 K. The department may enter into contracts with this state, any  
14 political subdivision of this state or private entities in order to provide  
15 employment or vocational educational experience. Any revenues the department  
16 receives from the contracts shall be deposited, PURSUANT TO SECTIONS 35-146  
17 AND 35-147, in the department of juvenile corrections restitution fund  
18 pursuant to section 41-2826 and shall be used in accordance with the purposes  
19 of the fund.

20 Sec. 35. Section 41-2825, Arizona Revised Statutes, is amended to  
21 read:

22 41-2825. Community work program

23 A. A community work program is established under the jurisdiction of  
24 the department.

25 B. The director may place a person granted conditional liberty in the  
26 community work program under the direction of the department.

27 C. The community work program shall involve community restitution  
28 programs, including graffiti abatement, park maintenance and other community  
29 ~~service~~ RESTITUTION activities.

30 D. The department may credit a youth for community ~~service~~ RESTITUTION  
31 pursuant to section 41-2826 at a rate deemed reasonable by the director.  
32 Monies credited to the youth under this subsection may only be used to  
33 satisfy restitution or court ordered monetary assessments.

34 Sec. 36. Section 41-2826, Arizona Revised Statutes, is amended to  
35 read:

36 41-2826. Department of juvenile corrections restitution fund:  
37 report

38 A. The department of juvenile corrections restitution fund is  
39 established for the payment of restitution and monetary assessments by youths  
40 who are ordered to pay restitution or monetary assessments and who are  
41 financially unable to pay or who are otherwise unable to be employed to earn  
42 money to pay restitution or monetary assessments and who are working in the  
43 committed youth work program prescribed by section 41-2822 or the community  
44 work program established by section 41-2825. The fund consists of federal,  
45 state and local appropriations and grants, gifts, devises and donations from

1 any public or private source. The fund shall be used to pay a youth for the  
2 youth's work in the committed youth work program prescribed by section  
3 41-2822 and to provide monies for the community work program established by  
4 section 41-2825.

5 B. The director may direct the payment of monies from the fund to the  
6 victim or the court for community ~~service~~ RESTITUTION ACTIVITIES the youth  
7 does to pay restitution or monetary assessments that were ordered by the  
8 juvenile court or that the youth agreed to pay as part of a community work  
9 program administered by the department. If a youth performs community ~~service~~  
10 RESTITUTION pursuant to this subsection, the entity providing the work shall  
11 supervise the youth's work. The youth shall be credited for each hour worked  
12 at an hourly rate set by the director.

13 C. As monies are available, the department shall pay from the fund  
14 youth who perform work or community ~~service~~ RESTITUTION ACTIVITIES for  
15 restitution and monetary assessments purposes.

16 D. The department may expend, for the payment of administrative costs  
17 and expenses, an amount not greater than ten per cent of the fund balance as  
18 of the end of the preceding fiscal year.

19 E. Monies in the fund are continuously appropriated and are exempt  
20 from the provisions of section 35-190 relating to lapsing of appropriations.

21 F. On or before August 15, 2002, and each year thereafter, the  
22 department shall submit a report to the joint legislative budget committee  
23 detailing all revenues received by and expenditures made from the fund during  
24 the most recent fiscal year.

25 Sec. 37. Section 46-803, Arizona Revised Statutes, is amended to read:

26 46-803. Eligibility for child care assistance

27 A. The department shall provide child care assistance to eligible  
28 families who are attempting to achieve independence from the cash assistance  
29 program and who need child care assistance in support of and as specified in  
30 their personal responsibility agreement pursuant to chapters 1 and 2 of this  
31 title.

32 B. The department shall provide child care assistance to eligible  
33 families who are transitioning off of cash assistance due to increased  
34 earnings or child support income in order to accept or maintain  
35 employment. Eligible families must request this assistance within six months  
36 after the cash assistance case closure. Child care assistance may be  
37 provided for up to twenty-four months after the case closure and shall cease  
38 whenever the family income exceeds one hundred sixty-five per cent of the  
39 federal poverty level.

40 C. The department shall provide child care assistance to eligible  
41 families who are diverted from cash assistance pursuant to section 46-298 in  
42 order to obtain or maintain employment. Child care assistance may be  
43 provided for up to twenty-four months after the case closure and shall cease  
44 whenever the family income exceeds one hundred sixty-five per cent of the  
45 federal poverty level.

1 D. The department may provide child care assistance to support  
2 eligible families with incomes of one hundred sixty-five per cent or less of  
3 the federal poverty level to accept or maintain employment. Priority for  
4 this child care assistance shall be given to families with incomes of one  
5 hundred per cent or less of the federal poverty level.

6 E. The department may provide child care assistance to families  
7 referred by child protective services and to children in foster care pursuant  
8 to title 8, chapter 5 to support child protection.

9 F. The department may provide child care assistance to special  
10 circumstance families whose incomes are one hundred sixty-five per cent or  
11 less of the federal poverty level and who are unable to provide child care  
12 for a portion of a twenty-four hour day due to a crisis situation of domestic  
13 violence or homelessness, or a physical, mental, emotional or medical  
14 condition, participation in a drug treatment or drug rehabilitation program  
15 or court ordered community service RESTITUTION. Priority for this child care  
16 assistance shall be given to families with incomes of one hundred per cent or  
17 less of the federal poverty level.

18 G. In lieu of the employment activity required in subsection B, C or D  
19 of this section, the department may allow eligible families with teenaged  
20 custodial parents under twenty years of age to complete a high school diploma  
21 or its equivalent or engage in remedial education activities reasonably  
22 related to employment goals.

23 H. The department may provide supplemental child care assistance for  
24 department approved education and training activities if the eligible parent,  
25 legal guardian or caretaker relative is working at least a monthly average of  
26 twenty hours per week and this education and training are reasonably related  
27 to employment goals. The eligible parent, legal guardian or caretaker  
28 relative must demonstrate satisfactory progress in the education or training  
29 activity.

30 I. Beginning March 12, 2003, the department shall establish waiting  
31 lists for child care assistance and prioritize child care assistance for  
32 different eligibility categories in order to manage within appropriated and  
33 available monies.

34 J. The department shall establish criteria for denying, reducing or  
35 terminating child care assistance that include:

36 1. Whether there is a parent, legal guardian or caretaker relative  
37 available to care for the child.

38 2. Financial or programmatic eligibility changes or ineligibility.

39 3. Failure to cooperate with the requirements of the department to  
40 determine or redetermine eligibility.

41 4. Hours of child care need that fall within the child's compulsory  
42 academic school hours.

43 5. Reasonably accessible and available publicly funded early childhood  
44 education programs.



1           6. Whether an otherwise eligible family has been sanctioned and cash  
2 assistance has been terminated pursuant to chapter 2 of this title.

3           7. Other circumstances of a similar nature.

4           8. Whether sufficient monies exist for the assistance.

5           K. The department shall review each case at least once a year to  
6 evaluate eligibility for child care assistance.

7           L. Notwithstanding section 35-173, monies appropriated for the  
8 purposes of this section shall not be used for any other purpose without the  
9 approval of the joint legislative budget committee.

10           Sec. 38. Applicability

11           Notwithstanding the provisions of this act changing "community service"  
12 to "community restitution", this act does not affect the administration and  
13 operation of existing community service programs. The court, prosecutors and  
14 probation departments may continue to use forms that reference community  
15 service after December 31, 2005 until those forms run out. Thereafter, the  
16 court, prosecutors and probation departments shall use forms that refer to  
17 community restitution instead of community service.

18           Sec. 39. Effective date

19           Sections 5-395.01, 5-397, 8-234, 8-321, 8-323, 8-341, 8-343, 8-352,  
20 8-353, 8-355, 9-499.07, 11-459, 12-299.03, 12-1809, 13-901.01, 13-914,  
21 13-3405, 13-3406, 13-3407, 13-3408, 13-3416, 13-3826, 28-672, 28-708,  
22 28-1174, 28-1381, 28-1382, 28-1387, 28-8284, 28-8286, 28-8289, 31-411,  
23 41-1604.07, 41-2822, 41-2825, 41-2826 and 46-803, Arizona Revised Statutes,  
24 as amended by this act, are effective from and after December 31, 2005.

APPROVED BY THE GOVERNOR APRIL 25, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2005.

SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

Passed the Senate April 18, 2005,

by the following vote: 25 Ayes,

4 Nays, 1 Not Voting

Klu Bennett  
President of the Senate

Channing B. Blevins  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of April, 2005

at 8:05 o'clock a M.

Wendy L. Ybarra  
Secretary to the Governor

Approved this 25 day of

April, 2005,

at 9:30 o'clock A M.

J. T. Apple  
Governor of Arizona

S.B. 1047

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25 day of April, 2005,

at 4:33 o'clock P M.

Janice K. Brewer  
Secretary of State

Passed the House April 4, 20 05,

by the following vote: 50 Ayes,

5 Nays, 5 Not Voting



Speaker of the House



Chief Clerk of the House

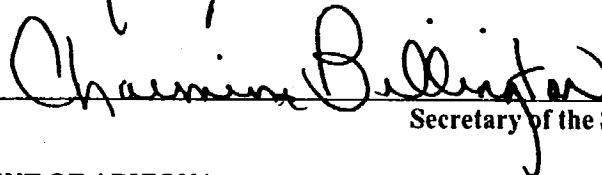
Passed the Senate February 7, 20 05,

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

       day of       , 20       ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20       ,

at        o'clock        M.

        
Governor of Arizona

S.B. 1047

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this        day of       , 20       ,

at        o'clock        M.

        
Secretary of State